



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

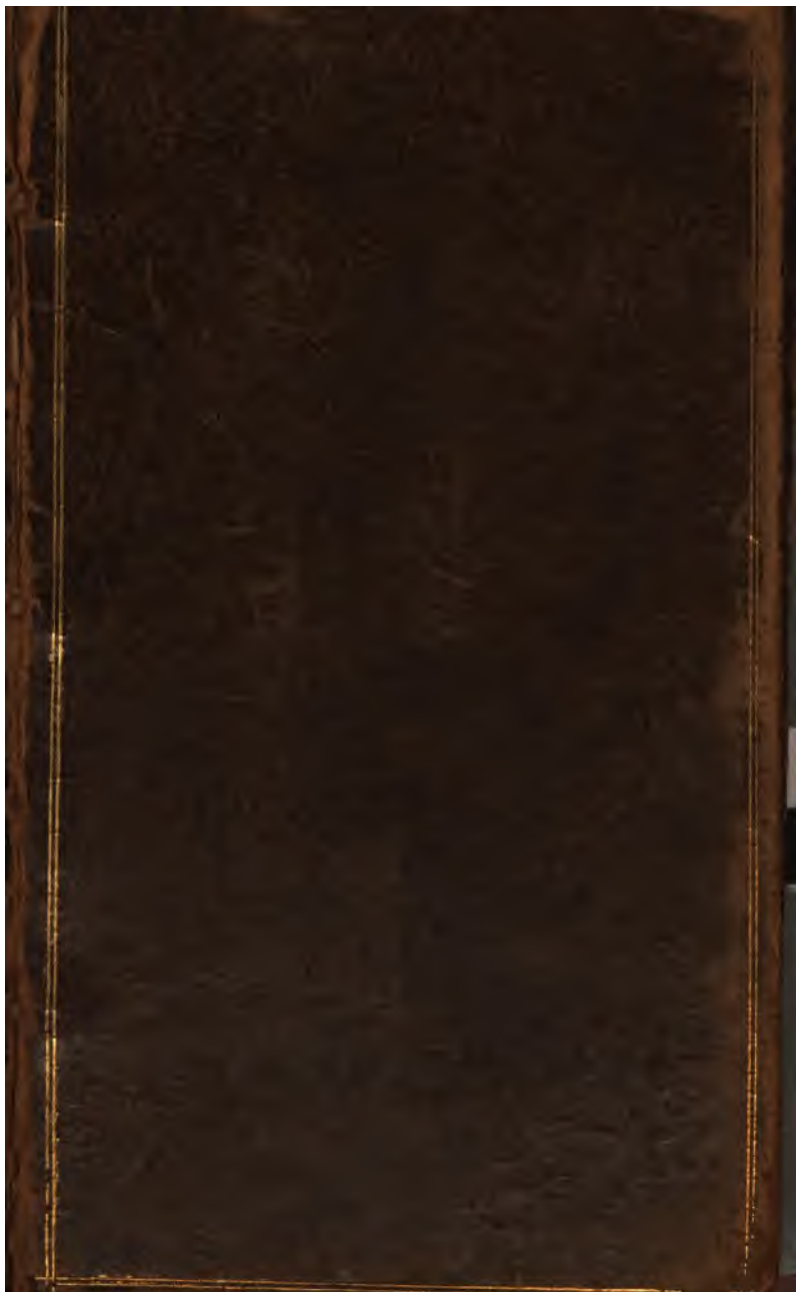
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



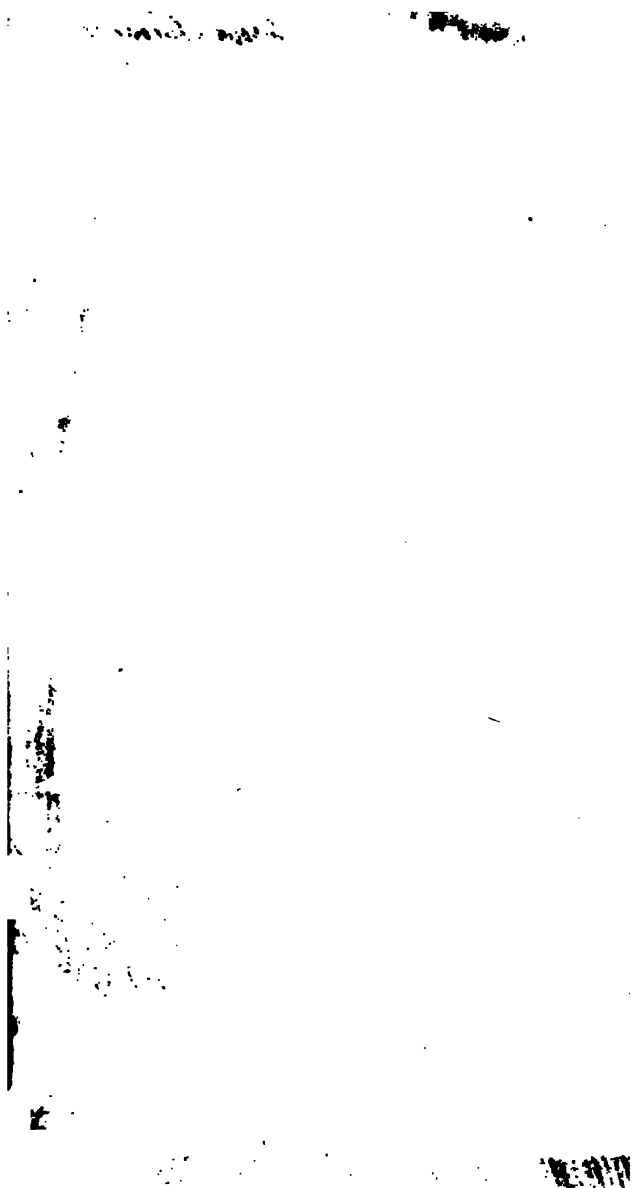
8^o Pawl. 55

Picture gallery

Album
Mus. Bibl. III.

22771. f. 5.

Landshaupt



A GENUINE and COMPLETE
COLLECTION
OF ALL THE
PROTESTS
MADE IN THE

House of LORDS,

gainst Things suppos'd injurious
to the Publick :

the most Illustrious and Independent
NOBLEMEN of that House,
many important Matters of the utmost
Consequence to the Constitution, Liberties,
Honour, Trade and Interest of BRITAIN.

from their ORIGINAL in the Year 1641
to the PRESENT TIME.

VOLUME II.

EDINBURGH:

Printed for the Company. 1748.





Die Veneris 26° Octobris, 1722.

The House was informed, That his Majesty having just Cause to suspect the Duke of *Norfolk* was engaged in the traiterous Conspiracy carrying on, had caused him to be apprehended, and did desire the Consent of the House, that the said Duke might be committed and detained according to the Act for suspending the *Habeas Corpus* Act.

| | |
|--------------|--|
| Contents 60 | After Debate, the Question was put, that this House does consent to the committing and detaining <i>Thomas Duke of Norfolk</i> , on Suspicion of High-Treason, pursuant to the Act passed in this present Session of Parliament, entitled, <i>An Act to empower his Majesty to secure and detain such Persons as his Majesty shall suspect are conspiring against his Person and Government?</i> |
| Not Cont. 28 | |

It was resolved in the Affirmative.

Dissentient

1st, Because we apprehend it to be one of the ancient undoubted Rights and Privileges of this House, that no Member of the House be imprisoned or detained, during the sitting of Parliament, upon Suspicion of High-Treason, until the Cause and Grounds of such Suspicion be communicated to the House, and the Consent of the House thereupon had to such Imprisonment or Detainer; which ancient Right and Privilege is recognized and declared in plain, express and full Terms, in the Act passed this Session of Parliament, to which the Message from his Majesty refers.

2^{dly}, Because it appears clear to us, not only from former Precedents, even when no such Law was in being as that above-mentioned, but also from the necessary Instruction of the Proviso therein concerning the Privileges of Parliament, that the House is entitled to have the Matter of the Suspicion communicated to them in such Manner as is consistent with the Dignity of the House, and will enable them to deliberate and found a right Judgment thereupon for or against the Imprisonment or Detainer of the Person concerned: But to tain, that whilst that Law shall be in Force, it shall be it shall be sufficient, in Order to obtain the
Con-

Consent of the House, to communicate a general Suspicion, that a Member of the House is concerned in a treasonous Conspiracy, without disclosing any Matter or Circumstance to warrant such Suspicion, is, in our Opinions, an unparliamentary Construction of the said Privilege, and such as wholly destroys the House of the Liberty of giving their free and impartial Advice to the Throne on this Occasion: and such a Construction being made upon a Law, so plainly intended by the Wisdom of this Parliament to assert the Privileges of both Houses, appears to us to pervert the true Word and Meaning of it, in such a Manner as renders it wholly defective of those very Privileges intended to be preserved.

3dly, Because his Majesty having, in effect, required the Judgment and Advice of the House touching the Imprisonment and Detainer of the Duke of No-Folk, we ought not, as we conceive, either in Duty to his Majesty, or in Justice to the Peer concerned, to found our Opinions concerning the same on any Grounds, other than such only as his Majesty hath been pleased to communicate in his Message; and his Majesty, by his Message, having communicated only a general Suspicion, we think we cannot, without the highest Injustice to the Duke, and the most palpable Violation of one of the most valuable Privileges belonging to every Member of this House, give our Consent to his Imprisonment or Detainer, and thereby make ourselves Parties to, and, in some degree, the Authors of such his Imprisonment, until we have a more particular Satisfaction touching the Matters of which he stands suspected; more especially considering the long and unprecedented Duration of the Act above-mentioned, whereby the Benefit not only of the Act commonly called the *Habeas Corpus* Act, but of *Magna Charta* itself, and other valuable Laws of Liberty, are taken from the Subjects of this Realm, and extraordinary Powers are given to the Persons therein mentioned over the Liberties of the People for a Twelve-month and upwards.

4thly, Because, we think, it is inconsistent, as well with the Honour and Dignity, as with the Justice of this House, in the Case of the meanest Subjects, to come to Resolutions for depriving them of their Liberty, upon
other

other than clear and satisfactory Grounds: But as the Members of both Houses of Parliament are, by the Laws and Constitution of this Kingdom, invested with peculiar Rights and Privileges, of which the Privilege before-mentioned is a most essential one, as well for the Support of the Crown itself, as for the Good and Safety of the whole Kingdom; we cannot, as we conceive, without betraying those great Truths which are reposed in us, as Peers of this Realm, agree to a Resolution which tends, in our Opinion, to subject every Member of this House, even while the Parliament is sitting, to unwarrantable and arbitrary Imprisonments; and we have the greater Reason to be jealous of the Infringement of this Privilege on this Occasion, because it had been very easy, as we think, for those who had the Honour to advise the framing the said Message, to have communicated to this House the Matter of which the Duke of *Norfolk* stands suspected, in such a Manner as might be consistent with the Privileges of this House; and at the same Time avoided any Danger or Inconvenience to the Crown, with regard to the future Prosecution of the said Duke, if any such shall be.

5thly, It is the known Usage and Law of Parliament, that this House will not permit any Peer to be sequestered from Parliament, on a general Impeachment of the Commons, even for High-Treason, till the Matter of the Charge be specified in Articles exhibited to this House; which explains to us the Nature of the Privilege intended to be secured by the Proviso, and is the highest Instance of the Care of this House to preserve it from being violated on any Pretence whatsoever: But, in our Opinions, it must create the greatest Inconvenience and Repugnancy in the Proceedings of the House, to consent that a Peer of the Realm should be imprisoned or detained (the Parliament sitting) on a Suspicion of High-Treason only, not warranted, for aught appears to us, by any Information given against him upon Oath, or otherwise, and no particular Circumstance of such Suspicion being communicated to the House.

6thly, Because a Resolution so ill grounded as this appears to us may produce very ill Effects, in the present unhappy Conjunction of Affairs, by creating fresh jealousies

lousies in the Minds of his Majesty's Subjects, who cannot fail of entertaining certain Hopes of the Safety of his Majesty's Person and Government against all his Enemies, from the Advice and Assistance of both Houses of Parliament, whilst they continue in the full Enjoyment and free Exercise of their ancient and legal Rights and Privileges; but on the other Hand, may be alarmed with new Fears for the Honour and Safety of his Majesty and his Government, by a Resolution taken by this House for the Imprisonment of a Peer of the Realm, in such a Manner as, in our Opinions, is highly injurious to his Person, and also to the Privilege of every other Peer of this Realm, and which may prove of fatal Consequence to the Constitution of both Houses of Parliament.

| | | |
|------------------|--------------------------|-------------------|
| <i>W. Ebor',</i> | <i>Fran. Cestriens',</i> | <i>Strafford,</i> |
| <i>Bathurst,</i> | <i>Scarsdale,</i> | <i>Foley,</i> |
| <i>Trevor,</i> | <i>Lechmere,</i> | <i>Osborne,</i> |
| <i>Hay,</i> | <i>Hereford,</i> | <i>Bristol,</i> |
| <i>Uxbridge,</i> | <i>Bingley,</i> | <i>Guilford,</i> |
| <i>Oxford,</i> | <i>Compton,</i> | <i>Asburnham.</i> |
| <i>Cowper,</i> | | |

Die Lunæ 21^o Januarii, 1722.

A Motion was made, That the Judges of the *King's Bench* be ordered to cause the Trial of *Christopher Layer Esq;* to be forthwith printed and published, the same being first perused by the King's Counsel.

And a Question being stated thereupon,

After Debate, the previous Question was
 Contents 32 put, whether the said Question shall be
 Not Cont. 53 now put?

It was resolved in the Negative.

Dissentient'

1st, Because it appeared to us, on the Debate of the main Question, that there has been an unnecessary and affected Delay in the Printing and Publishing the said Trial, it being full two Months since *Christopher Layer* was tried; and Direction having been given for the speedy publishing thereof, so long since as the 27th of *November* last, as appears by an Advertisement, printed by Authority, in the *Gazette*; and it having been allowed in the Debate, That the Delay was extraordinary,
 and

and no Fact having been laid before the House sufficient as we apprehend, to excuse such Delay, we think, that the main Question ought to have been put, as the only Security, in our Opinion, against any further Neglect, and to prevent any Imputation on the Honour of the House for countenancing or conniving at such Delay.

2dly, This House having received no manner of Satisfaction, since his Majesty's most gracious Speech from the Throne, touching the horrid Conspiracy therein communicated, and no Step having been taken, for ought appears to us, either in Parliament, or elsewhere, for obtaining the Justice due by the Laws of the Land to any of the Conspirators (except the said *Layer*) tho' his Majesty was pleased to assure this House, in his Speech from the Throne, that some of the Conspirators were then taken up and secured; we think that the main Question ought to have been put, whereby the Publication of the said Trial might have been quickned, and thereby the Nation have received such Satisfaction concerning the said execrable Conspiracy, as could be collected from the said Proceeding, and this House have been enabled to make such Use thereof as should appear necessary in their Wisdom for the Honour, Interest and Safety of his Majesty and his Kingdoms.

3dly, Because we are apprehensive, that the Delay in publishing the said Trial may have contributed to create Jealousies concerning the said Conspiracy, and may have encouraged ill-affected Persons to foment the same, to the great Prejudice of his Majesty's Government; and as, in our Opinion, the speedy publishing the said Trial, if the same had been done, might have conduced to the Prevention of those Mischiefs, we also conceive, that the further Growth of them might have been checked, if the main Question had been put, and carried in the Affirmative.

4thly, Because we think it of great Consequence to his Majesty's Service, that the Publication of the said Trial should have been made under the strictest Security against any Partiality or other Abuse relating thereto; and therefore, we think, the main Question ought to have been put, whereby the Care and Inspection thereof would have been lodged, by the Authority of this House,

House, in the Hands of the Judges, to whom it properly belongs; and its falling into any other Hands not so proper, or not so immediately responfable to this House, would have been prevented.

| | | |
|------------------|-------------------------|--------------------|
| <i>Anglefey,</i> | <i>Osborne,</i> | <i>Foley,</i> |
| <i>Craven,</i> | <i>Fran. Ceftriens,</i> | <i>Lechmere,</i> |
| <i>Cowper,</i> | <i>Wefton,</i> | <i>Trevor,</i> |
| <i>Bathurft,</i> | <i>Strafford,</i> | <i>Afbburnham,</i> |
| <i>Aylefurd,</i> | <i>Hereford,</i> | <i>Compton.</i> |
| <i>Gower.</i> | | |

Then a Motion being made, and the Contents 29 Question being put, That the Judges
Not Cont. 48 of the *King's-Bench* do attend in their Places on *Thursday* next; and that the King's Council, who were concerned in the Trial of *Chriftopher Lajer*, and alfo the Council for the faid Lajer at the faid Trial, and Mr. *Samuel Buckley*, and the Perfon or Perfons who took the faid Trial in Short-hand, do attend at the Bar of this Houfe at the fame Time?

It was refolved in the Negative.

Different

1st, Becaufe the Houfe having refolved, that the Question for ordering the printing the Trial of *Lajer* fhould not now be put, we are of Opinion, that it is thereby made neceffary, for the Honour of the Houfe, that the Occafion of the Delay fhould be inquired into; for without fuch Inquiry, we are apprehenfive, that the Proceedings of this Houfe may be mifconftrued as tending to countenance fuch Delay.

2^{dly}, Becaufe we think it the Right of this Houfe to inquire into all Neglefs or Abufes which concern the Publick; and tho' it was objected in the Debate, that fuch Inquiry might carry fome Imputation on the Judges, or other Perfons concerned, we think, that that Objection may be equally affigned againft all Inquiries, but is inconfiftent with the Honour and Dignity of the Houfe, and ought not, as we conceive, to be put in the Balance with the Honour of the Houfe and the Publick Service, to which the Question, in our Opinion, has an apparant Tendency.

| | | |
|-------------------------|-------------------|------------------|
| <i>Anglesey,</i> | <i>Strafford,</i> | <i>Trevor,</i> |
| <i>Aylesford,</i> | <i>Compton,</i> | <i>Conover,</i> |
| <i>Affburnham,</i> | <i>Weston,</i> | <i>Osborne,</i> |
| <i>Fran. Cestriens,</i> | <i>Lechmere,</i> | <i>Bathurst,</i> |
| <i>Brooke,</i> | <i>Gower,</i> | <i>Foley.</i> |
| <i>Craven,</i> | | |

Die Martis 29^o Januarii, 1722.

The Order was read for taking into Consideration the Protestation enter'd in the Journal of this House upon *Monday* the 21st of this instant *January*; and the several Reasons in the said Protestation being read,

A Motion was made, That it is a groundless Assertion in the Protestation enter'd upon *Monday* the 21st of this instant *January*, that it appeared in the Debate, that there had been an unnecessary and affected Delay in the printing and publishing the Trial of *Christopher Layer*; and the utmost Indignity to this House to suggest, That any Question was necessary to have been put for preventing an Imputation on the Honour of this House for countenancing or conniving at such Delay.

And a Question being stated thereupon,

It was proposed, after the Word [Debate] and before the Word [that] to add these Words, *viz.* [to the Lords who signed the said Protest.]

Which being objected to,

The Question was put, whether those
 Contents 34 Words shall be made Part of the Que-
 Not. Cont. 64 stion?

It was resolved in the Negative.

Then it was proposed, after the Word [Question] and before the Words [was necessary] to insert these Words, *viz.* [in the Opinion of the same Lords.]

Which being likewise objected to,

The Question was put, whether those Words shall be made Part of the Question?

It was resolved in the Negative.

Then the foregoing stated Question was put?

And it was resolved in the Affirmative.

Dissentient

1st, Because the Assertion and Suggestion in the Protestation intended to be censured by the Resolution:

qualified, as the Amendments offered would have stated them, if admitted, by being restrained to the Opinion of the Lords who signed the Protestation ; but those Restrictions are wholly omitted in the Resolution : And we are clearly of Opinion, that if the Assertion and Suggestion had been set forth in the Resolution, as they stand in the Protestation, they could not have been censured with any Colour of Justice ; but that the said Omission being, as we conceive, of a Circumstance extremely material, we think the Censures contained in the Resolution are not applicable to the Assertion and Suggestion found in the Protestation, but to such as are of a very different Nature.

2dly, The restraining the Assertions used in Protestations to the Apprehension or Opinion of the Lords protesting, where it contradicts the Opinion of the House, if, as we conceive, so much of the Essence of a Protestation with Reasons, that of the great Number of Instances of such Protestations standing on the Journals of this House, not one would be found regular among them, if that due Caution and Respect to the Opinion of the Majority was omitted ; and therefore it seems clear to us, that the like Censure might be as justly passed on all the Protestations with Reasons, that were ever enter'd, if they were recited and represented in the same manner as we conceive this to be.

| | | |
|-------------------------|--------------------|------------------|
| <i>Brooke,</i> | <i>Litchfield,</i> | <i>Lechmere,</i> |
| <i>Fran. Cestriens,</i> | <i>Exeter,</i> | <i>Campton,</i> |
| <i>Scarfsdale,</i> | <i>Guilford,</i> | <i>Foley,</i> |
| <i>Cowper,</i> | <i>Osborne,</i> | <i>Bathurst,</i> |
| <i>Craven,</i> | <i>Hereford,</i> | <i>Hay,</i> |
| <i>Montjoy,</i> | <i>Uxbridge,</i> | <i>Aberdeen,</i> |
| <i>Ashburnham,</i> | <i>Strafford,</i> | <i>Gower,</i> |
| <i>Trevel,</i> | <i>Anglesey,</i> | <i>Bingley.</i> |

Then a Motion was made, That the said Trial has been printed and published with as much Expedition as the Length and Nature of the said Trial, and the careful Perusal and Examination thereof by the Judges, could admit of, and in as little time as has been generally accustomed in the like Cases ; and that it is an unjust Insinuation that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the

the Hands of the Judges, or that there was any Danger of its falling into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges,

And a Question being stated thereupon,

It was proposed to leave out these Words, *viz.* [and that it is an unjust Insinuation, that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges.] ~

Which being objected to,

Contents 62 The Question was put, whether those
Not Cont. 35 Words shall stand Part of the Question?
It was resolved in the Affirmative.

Dissentient'

Because we conceive it to be contrary to the Nature and Course of Proceedings in Parliament, that a complicated Question consisting of Matters of a different Consideration should be put, especially if objected to, that Lords may not be deprived of the Liberty of giving their Judgments on the said different Matters, if they think fit.

| | | |
|-------------------|--------------------------|--------------------|
| <i>Scarsdale,</i> | <i>Cowper,</i> | <i>Bathurst,</i> |
| <i>Aberdeen,</i> | <i>Fran. Cestriens',</i> | <i>Guilford,</i> |
| <i>Exeter,</i> | <i>Montjoy,</i> | <i>Litchfield,</i> |
| <i>Brooke,</i> | <i>Foley,</i> | <i>Leckmere,</i> |
| <i>Osborne,</i> | <i>Ashburnham,</i> | <i>Bingley,</i> |
| <i>Hay,</i> | <i>Strafford,</i> | <i>Uxbridge,</i> |
| <i>Trevor,</i> | <i>Gower,</i> | <i>Compton,</i> |
| <i>Anglesey,</i> | <i>Craven,</i> | <i>Hereford.</i> |

Contents 58 Then the main Question was put, that
Not Cont. 32 the said Trial has been printed and published with as much Expedition, as the Length and Nature of the said Trial, and the careful Perusal and Examination thereof by the Judges, could admit of, and in as little Time as has been generally accustomed in the like Cases; and that it is an unjust Insinuation, that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling

into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges?

It was resolved in the Affirmative.

Dissentient

1st, Because when a Question was moved, on the twenty-first of this Instant, in order to appoint a Day for this House to inquire, if the printing *Layer's* Trial was dispatched with all proper Expedition, or if not, where the Fault lay; which would naturally have led us to have seen if it had fallen into any other Hands than it should have done; tho' we thought it highly reasonable, the Majority of the House then did not, and we were yet willing to have gone into the same Examination; but we cannot conceive it to be fit or agreeable to the Dignity or regular Course of Proceedings in this House to vote or resolve so many Matters of Fact, as are contained in this Resolution, without any Examination at all, or any Evidence given to support them, and which in their Nature, we think, cannot be within the Knowledge of any one Lord present in the Debate.

2^{dly}, As for the Insinuation with which the Protestation is charged by this Resolution, we do not apprehend the Protestation to be justly liable to that Charge; but supposing it to be so, we cannot yet but be of Opinion, that the permitting that Matter to have been fully inquired into, would have been the properest and best Method of preventing or answering that Insinuation.

| | | |
|--------------------|-------------------|--------------------------|
| <i>Litchfield,</i> | <i>Brooke,</i> | <i>Uxbridge,</i> |
| <i>Foley,</i> | <i>Strafford,</i> | <i>Osborne,</i> |
| <i>Gower,</i> | <i>Compton,</i> | <i>Anglesey,</i> |
| <i>Lechmere,</i> | <i>Exeter,</i> | <i>Fran. Cestriens',</i> |
| <i>Guilford,</i> | <i>Craven,</i> | <i>Montjoy,</i> |
| <i>Scarsdale,</i> | <i>Cowper,</i> | <i>Bathurst,</i> |
| <i>Trevar,</i> | <i>Aberdeen,</i> | <i>Hereford.</i> |
| <i>Bingley,</i> | <i>Hay,</i> | |

Then a Motion was made, that this House not capable of doubting of the Truth of the traiterous Conspiracy communicated to them by his Majesty in his most Gracious Speech from the Throne, has ever since that Time received very great Satisfaction from some convincing Proofs touching the same, and is firmly persuaded, that
such

such further Satisfaction will be yet in due time given, as must render it impossible for any one to doubt thereof.

And a Question being stated thereupon,

After Debate, the previous Question was put, whether the said Question shall be now put?

It was resolved in the Affirmative.

Dissentient

1st, Because to the best of our Apprehensions, no Part of the Protestation gave Occasion for the putting of such a Question; for it was, as we conceive, clearly admitted in the Protestation, that his Majesty's most Gracious Speech from the Throne had given Satisfaction as to the Truth of the Conspiracy in general; and the excepting *Laver's* Trial therein did plainly allow, that the said Trial had, as far as they went, opened the Particulars; and yet the Resolution, as we take it, carries with it an Imputation, that the Protestation had raised a Doubt concerning the Truth of the said traiterous Conspiracy; which Imputation is, in our Opinion, entirely groundless.

2^{dly}, The said several Resolutions importing Censures, as we conceive, on the said Protestation, and being not warranted by more than one Precedent, that we can find, on the Journals of this House; and the Liberty of Protesting with Reasons being an unquestionable Right and essential Privilege of the whole Peerage, we are of Opinion that the said Resolutions tend to discountenance and discourage the due Liberty of Protesting, and in that Respect may be, as we apprehend, of dangerous Consequence.

Litchfield,

Osborne,

Guilford,

Compton,

Bathurst,

Bingley,

Hay,

Mantjoy,

Brooke,

Fran. Cestriens',

Craven,

Anglesey,

Foley,

Lechmere,

Scarsdale,

Aberdeen,

Strafford,

Hereford,

Cowper,

Uxbridge,

Exeter,

Gower.

Die Sabbati 16^o Februarii, 1722.

Report was made from the Committee of the whole
N 2 House,

Heads, of the Amendments made to the Bill for punishing Mutiny and Desertion.

And the Amendment in Relation to the Number of Forces to be allowed, which was to specify that 16,449 effective Men and 1,815 Invalids should be the Number instead of all the Forces then on Foot, being read a second time,

Contents 70

Not Cont. 25

The Question was put, whether to agree with the Committee in the said Amendment?

It was resolved in the Affirmative.

Dissentient

1st, Because, as we conceive, the keeping an Army of regular Troops in this Kingdom, under Martial-Law, consisting of a greater Number than what we take to be necessary for the Guard of the King's Person and Defence of the Government, is of the most dangerous Consequence to the Constitution of this Kingdom, and, in our Opinion, may bring on a total Alteration of the Frame of our Government from a legal and limited Monarchy to a despotick; and we are induced to be of this Judgment, as well from the Nature of Armies and the Inconsistency of so great a Military-Power and Martial-Law with the Civil Authority, as from the known and universal Experience of other Countries in *Europe*, which by the Influence and Power of Standing Armies, in Time of Peace, have from limited Monarchies, like ours, been changed into absolute; for which Reason we cannot give our Consent to this Amendment, whereby the present Number of Troops amounting in the Whole (Invalids included) to fourteen thousand odd hundred Men (which we think abundantly sufficient for all good Purposes) will be increased to near four thousand more, altho' there be at this Time no Ground to apprehend an Invasion from a foreign Enemy, or, as we believe, any Insurrection or Rebellion at home.

2^{dly}, Because that which seems to have given Rise to this Augmentation of the Army, is the late treasonable Conspiracy which his Majesty at the Opening of this Session acquainted his Parliament with; and that Conspiracy having been discovered above eight Months since; and

• further detecting and punishing the Conspirators hav-
ing

ing been ever since in the Hands of a faithful and vigilant Ministry, we cannot think it at all probable the Conspiracy should be still carrying on ; or if any Dregs of it should be yet remaining, that the Government cannot be easily secured by the Civil Authority, assisted with so great a Number of Troops as are at present on Foot ; and therefore we cannot think ourselves justifiable to the Kingdom, whose Rights and Liberties we are intrusted to preserve, had we given our Votes to this Augmentation of Troops, when no evident Necessity or just Occasion appeared to us for such an Increase.

3dly, Because the Act passed this Session, to enable his Majesty to apprehend and detain in Custody any Person suspected of being engaged in any treasonable Conspiracy for above twelve Months (tho' that Power had never been granted to the Crown before half that Time at once, and that when there was an actual Rebellion or an expected Invasion) was so great a Power added to the former Authority of the Crown, that we cannot but think altogether sufficient to prevent any Mischiefs from treasonable Plots or Practices which may be attempted or carried on by any rebellious or disaffected Persons without increasing the Army, which in its present State is not submitted to, but as necessary for avoiding a greater Evil.

4thly, Tho' the Augmentation by this Bill is only for one Year, yet, we fear, this will be a Means for the continuing them in Perpetuity ; for we think it probable there will at all Times hereafter be easily found as good Reason for continuing this Increase, as there is now for making it.

5thly, Because, we think, the greatest and only lasting Security to his Majesty and his Government is in the Hearts and Affection of his Subjects, and if the Disaffection or Discontents which have of late happened from some unfortunate Proceedings are thought by any to be an Argument for raising more Forces, we think it the Duty of all good Subjects, who wish well to his Majesty and our present happy Establishment, to use their best Endeavours for curing those Discontents by removing or lessening the Occasion thereof, and consequently that there should not be an Augmentation of the Army, which

is already sufficiently burthenfome to the Subject, both by the great Charge of maintaining them, and by the Uneasiness to the Place where they are quartered, because thereby the Charge to the Subject will be considerably increased, which, as we apprehend, ought most carefully to be avoided in our Circumstances, when the Load of Taxes is already so great, and the Kingdom involved in so immense a Debt, that nothing but the most prudent Oeconomy and good Husbandry can give us any probable Prospect of easing it; and therefore not being convinced of any real and just Grounds for such Increase of Troops, do fear that this will not take away or lessen, but rather increase the Discontents and Disaffection of the People; and, in that Respect, weaken his Majesty's Government in a greater Degree than it will be strengthen'd by this Addition of Forces, allowing something for the Possibility of false Musters.

| | | |
|-----------------------------|--------------------|------------------------|
| <i>W. Ebor,</i> | <i>Osborne,</i> | <i>Compton,</i> |
| <i>Scarfsdale,</i> | <i>Bristol;</i> | <i>Bathurst,</i> |
| <i>Poulett,</i> | <i>Litchfield,</i> | <i>Strafford,</i> |
| <i>Abburnham,</i> | <i>Gower,</i> | <i>Fran. Ceftrius;</i> |
| <i>Aberdeen,</i> | <i>Uxbridge,</i> | <i>Trevor,</i> |
| <i>Hay,</i> | <i>Foley,</i> | <i>Cowper,</i> |
| <i>Oxford and Mortimer,</i> | <i>Montjoy,</i> | |

Die Sabbati 9^o Martii, 1722.

Complaint being made to the House, That in a Paragraph of the printed Report from the Committee appointed by Order of the House of Commons to examine *Christopher Layer*, and others, and to whom several Papers and Examinations laid before the House relating to the Conspiracy mentioned in his Majesty's Speech at the Opening the Session to be carrying on against his Person and Government, were referred, the Lord *Strafford* and Lord *Kinnoul* are mentioned in the Deposition of *Andrew Pancier*, that he had been told by one *Skeene* (now in Custody) that the said Lords knew of an Invasion intended by Forces from abroad, and were concerned in the Management of the Conspiracy here,

And thereupon a Motion being made, That the said *Andrew Pancier* and ——— *Skeene* be immediately sent for to attend at the Bar of this House,

After.

After Debate, the Question was put, that
 Contents 29 *Andrew Pancier* and — *Skeene* be
 NotCont.64 immediately sent for to attend at the
 Bar of this House ?

It was resolved in the Negative.

Dissentient'

1st, Because the Earl of *Kinnoul* and the Earl of *Strafford* having severally complained to the House, that they find themselves reflected on in a printed Deposition of one *Andrew Pancier*, wherein he deposeth, That one *Skeene* (now in Custody) had acquainted him, among other Things, that the said Earls knew of the late Conspiracy, and were concerned in the Management of it here ; and the said Earls alledging, that they did not see by the Report, in which that Deposition is found, that the said *Skeene*, tho' in the Hands of the Government, had been so much as questioned touching the said Hearsay (which Observation we find to be true) we think it highly reasonable to have complied with the Motion and Request of the said Lords, That the said *Pancier* and *Skeene* might be examined at the Bar of this House in Relation to that Matter only ; the like Request, for the better clearing the Reputation of any noble Lord, when he hath thought it unjustly aspersed, having never been denied, that we know of ; but on the Contrary, it was, not long since, granted in the Case of the Earl of *Sunderland*, tho' the Examination which he thought reflected on his Honour was not come into Print when he made his Complaint ; which, according to our Judgment, was not so strong a Case, for granting the Motion, as the present is.

2^{dly}, Because the said Deposition, as far as it is printed, contains nothing but what one Deponent heard another say (except as it contains a Charge on *Skeene* for saying it) we think it was very natural and proper, as well for the Advancement of Justice, as for the Vindication of the noble Lords requesting it, to trace the said Hearsay, if possible, to the Fountain-Head, or at least so far as to know, from the Person charged with relating it, whether he would deny his having related it ; or if not, whether he would confess the Falsity of what he had so related, or undertake to make it good by his own Testimony, or otherwise.

3dly, We think there could be no Inconvenience in examining, as moved, to find whether there was any, and what Foundation for this Hearsay; it not being an Anticipation of the Course of Justice (as examining a Part of the Evidence against any Man, or a Part of an Accusation, would be) since the Swearing what one Man said of a third Person is in no sort Evidence, either in Law or Reason, to support a Conviction, or even to ground an Accusation upon, in any Form whatsoever.

4thly, Since a mere Hearsay, being no Evidence in the least Degree, cannot be made a Foundation for any legal Proceeding, it is impossible for any noble Lord, whose Honour may be affected by it, to hope to clear himself on any Trial, or other like Opportunity that can be given him to make his Defence; and therefore, since there is no other Method, that we can think of, so proper or effectual, in our Opinions, as an Examination of the Nature of that moved for, we think it ought to have been ordered, and that every noble Lord may possibly, in Time, be hurt by the Consequence of this Precedent.

5thly, We cannot think that the examining, as moved for, into this Hearsay only, could have made any Difference with the other House, since it is inconceivable by us, that any Number of Gentlemen, who may have by Accident (for we hope it is no otherwise) in setting forth the Deposition of *Pancier* as a Charge against *Steele*, happened to asperse the Reputation of some of the Peers of the Realm, could resent either that these Lords should desire, or the House permit them to clear themselves as soon and as effectually as possible of that Hearsay.

Strafford,

Aylesford,

Poulett,

Bristol,

Batburst,

Scarsdale,

Willoughby de Broke,

Kitchfield,

Fran. Cestriens',

Guilford,

Anglesey,

Folry,

Exeter,

Cowper,

Berkeley of Stratton,

Compton,

Osborne,

Arundell,

Craven,

Bruce,

Hay,

Uxbridge,

Weston,

Bingley.

Die Jovis 21^o Martii, 1722.

Complaint being made to the House by the Earl of
Scarsdale,

Scarsdale, Earl of *Strafford*, Earl *Cowper*, Lord *Craven*, Lord *Gower*, Lord *Bathurst*, and Lord *Bingley*. That in one or more of the Examinations of *Christopher Layer*, in the printed Appendixes referred to in the Report from the Committee appointed by Order of the House of Commons to examine *Christopher Layer* and others, it is set forth, That one *John Plunkett* told him the said *Layer*, that the said Lords were of a Club or Meeting called, in some of the said *Plunkett's* Letters, *Burford's* Club.

And the said Lords severally declaring the same to be false and groundless,

A Motion was made, and the Question was put, that *John Plunkett*, now in Custody, being the Person who, *Layer* says, in one or more of his Examinations, told him, that several Lords of Parliament, therein named, were of a Club or Meeting called, in some of the said *John Plunkett's* Letters, *Burford's* Club, be forthwith brought to the Bar of this House, to be examined touching the said Matter only?

It was resolved in the Negative.

Dissentient

And for Reasons we refer to those enter'd on a Protestation made on the 9th Day of this Instant *March*, to a Resolution of the like Nature.

| | | |
|-------------------|------------------|--------------------|
| <i>Scarsdale,</i> | <i>Bingley,</i> | <i>Craven,</i> |
| <i>Aylesford,</i> | <i>Uxbridge,</i> | <i>Litchfield,</i> |
| <i>Bathurst,</i> | <i>Gower,</i> | <i>Dartmouth,</i> |
| <i>Montjoy,</i> | <i>Hay,</i> | <i>Strafford,</i> |
| <i>Weston,</i> | <i>Cowper,</i> | <i>Poulett,</i> |
| <i>Compton,</i> | <i>Foley,</i> | <i>Guilford.</i> |
| <i>Exeter,</i> | | |

Die Veneris 29^o Martii, 1723.

A Petition of *Francis* Lord Bishop of *Rocheſter*, Prisoner in his Majesty's Tower of London, was presented to the House and read, setting forth, That by Order of the House of Commons he has received a Copy of a Bill for inflicting certain Pains and Penalties upon him for supposed Crimes, of which he is innocent: That by another Order of the said House (upon the Petitioner's Letter to the Speaker) Council and Solicitors are allowed to come to him to assist him in the making his De-

fence; but the Petitioner finding by a standing Order of this most honourable House of the 20th of *January* 1673, that no Lord may appear by Council before *the House of Commons* to answer any Accusation there, he is under great Difficulty; and that he may not do any Thing which may give Offence to their Lordships, and be derogatory to the Rights of Peerage, in which, as a Member of this House, he has the Honour to partake, the Petitioner humbly prays their Lordships Directions for his Conduct in this Behalf.

And the standing Order being read,

A. Motion was made, and the Question-
 Contents 32 was put, that the Bishop of *Rocheſter*
 Not Cont. 78 being a Lord of Parliament ought not
 to answer or make his Defence by
 Council or otherwise, in *the House of Commons*, to any
 Bill or Accusation there depending?.

It was resolved in the Negative.

Dissentient.

1st, Because, we conceive, the permitting the Lord Bishop of *Rocheſter* to make his Defence in the *House of Commons* would be directly contrary to the Words and Meaning of the standing Order of the House, bearing Date the 20th of *January* 1673, which expressly and clearly orders, That for the future no Lord (which extends to Lords Spiritual as well as Temporal) shall go down to *the House of Commons*, or send his Answer in Writing, or appear by Council to answer any Accusation there; and it is observable that this Order is worded absolutely, and not qualified by the Words [without Leave of the House] as the following standing Order of the 25th of *November* 1696, which prohibits Lords from going into *the House of Commons* while the House is sitting, is qualified; from which different penning, as well as from the Preamble of the said first mentioned Order which shows the Mischief designed to be prevented was, the giving Leave, in Cases of Lords desiring it, to appear or answer Accusations in *the House of Commons* we infer that the said Order of *January* 1673, was meant as a Rule for all future Times, that if Leave should be asked by a Lord of Parliament to answer or make a Defence to an Accusation, in any Form, as we conceive,

in

in *the House of Commons*, it ought to be denied, as deeply intrenching on the Privileges of this House.

2dly, The said standing Order, in Affirmance of which the Question was moved, ought to be of the greater Weight; in our Opinions, it having been founded on the Consideration and Report of a Committee, to whom it was particularly referred to consider the Practice of Lords desiring Leave to answer Accusations in *the House of Commons*; on the Perusal of Precedents in that Committee, and upon serious Consideration and Perusal of the same Precedents in the House itself.

3dly, We cannot apprehend but that a Bill, by which Crimes are charged and a Preparation is made to inflict Penalties, if the Crimes are proved, contains clearly an Accusation, especially when a Day is given, and Council allowed by *the House of Commons* to the Person against whom the Crimes are alledged to make a Defence to the same; which Proceeding, though in the Legislative Capacity of that House, carries in it all the essential Parts of a judicial Trial; and we therefore conceive that this House ought to be more jealous of their Members answering in *the House of Commons* an Accusation in this Form, rather than in any other, since thereby they submit themselves to try the Point of their being Guilty or not Guilty in *the House of Commons*; and that in Order to receive the Sentence and Judgment of that House by passing or rejecting the Bill; and this, in our Opinions, more deeply intrenches, as the standing Order expresseth it; on the Privileges of this House, than a Lord's going down to *the House of Commons*, during a Debate there, to prevent an Impeachment, doth; the latter being only to prevent an Accusation, but the former is, as we clearly conceive, to answer an Accusation there; the very Thing prohibited by the standing Order.

4thly, We think the Accusation which Lords are prohibited to answer, by this standing Order, must be chiefly, if not only understood of an Accusation, couched in a Bill, as in the present Case, since we never heard that any Lord of Parliament did at any Time answer to, or defend in Person, or by Council, an Impeachment in *the House of Commons*, tho' they may have gone down to that House by Connivance to prevent such Impeachment; and therefore Lords defending them-

themselves in *the House of Commons* against an Impeachment could not be the Mischief intended to be cured by the said standing Order.

5thly, That *the House of Commons*, on Bills to inflict Penalties, do proceed, strictly speaking, in their Legislative Capacity, is certainly true; and yet it is plain to us, that in Reality they partake in such Cases with *the House of Lords* in the Judicature, or which is all one, in trying and adjudging Offenders to Punishment; and tho' the Lords should, in very extraordinary Cases, think fit to concur in such a Method of punishing, yet it is, in our Opinions, going by much too far for the Lords to permit any of their Body to make Defence in *the House of Commons* either by himself or Council; which is letting themselves down to a very great Degree, and giving an unnecessary Encouragement to that Manner of Proceeding; and when the Lords have so far submitted to this Course, we think there is little Reason to expect that afterwards the Commons will ever appear at the Lords Bar as Accusers, when they can by this Way make themselves as much Judges, even over Lords, as in this Proceeding by Bill the Lords themselves are.

6thly, Though Lords, by not being permitted to appear, either in Person or by Council, to defend themselves in *the House of Commons*, may be thought possibly to lose some Advantage in their Defence, yet, we think, it was and is the true Meaning of the standing Order first mentioned, that a Lord should rather suffer something of Inconvenience in that Particular, and commit his Cause to God and the Justice of the House, of which he is a Member, and who are his proper Judges, than in any Degree debase or derogate from the legal State and Dignity of the Lords in general.

7thly, Although there be, as we conceive, a very manifest and important Difference in Reason, as to the Matter of this Question, between the Case of Bishops, who are declared by the standing Order of the 23d of May 1628, to be only Lords of Parliament, and not Peers, for they are not of Trial by Nobility, and that of the Peers of the Realm, who undoubtedly, for Matters of Treason and Felony, are triable by their Peers only: yet since, by the standing Order first mentioned,

Bishops.

Bishops are as much and as clearly prohibited to answer an Accusation in *the House of Commons*, as the Peers and Lords Temporal are, we cannot but apprehend, with the deepest Concern, that this Case may be used hereafter as a Precedent, though, as we take it, far from being a Precedent in Point, to bring by Degrees the Peers of the Realm to defend themselves against Accusations of the like Nature in *the House of Commons*; which if once brought to be a Practice, we are of Opinion that the Peers of the Realm would in great Measure be degraded from their Peerages, and so by weakening and debasing the Order of Nobility, which in its Institution was meant, or at least hath proved a Lustre and Security to the Crown, the Safety as well as Dignity of the Crown itself may be hereafter in a great Degree impaired.

| | | |
|-------------|-------------|-------------|
| Scarfsdale, | Uxbridge, | Dartmouth, |
| Cowper, | Weston, | Gower, |
| Strafford; | Bruce, | Trevor, |
| Poulett, | Litchfield, | Aylesford, |
| Hay, | Montjoy, | Albburnham, |
| Foley, | Bathurst, | Compton, |
| Arundell, | Bingley, | Guilford. |

Die Veneris 5o Aprilis, 1723.

A Petition of *Francis Bishop of Rochester*, Prisoner in the *Tower*, was presented to the House and read, setting forth, That on *Thursday* the 4th Instant, about three o' Clock in the Afternoon, Colonel *Williamson*, Deputy-Lieutenant of the *Tower*, attended by Mr. *Serjeant*, the Gentleman-Porter, and by two Warders, came up to the Petitioner's Room while he was at Dinner, and having put his two Servants under the Custody of Warders below, told the Petitioner he must search him; the Petitioner asked him for his Warrant; he answered, he had Authority from the Ministry, affirming it upon his Salvation; but the Petitioner refused to be searched till he shew'd it; he then said he had a verbal Order, but refused to say from whom; the Petitioner told him, if it were verbal only, it did not appear to him, and he would not be searched; he endeavoured nevertheless to search the Petitioner's Pockets himself by Force, but the

Petiti-

Petitioner wrapped his Morning-Gown about him, and would not suffer him till he shewed his Warrant, which the Petitioner demanded five or six Times to no Purpose; he then ordered the two Warders attending him to come to the Petitioner and do their Duty, and one of them laid Hands upon him, and began to use Violence; and though the Petitioner knocked and called often for his Servants, Colonel *Williamson* said they should not, nor were they permitted to come near him; upon this, the Petitioner submitted, and they took every Thing out of his Pockets, and searched his Bureau and Desk, and carried away with them two Seals; they seiz'd also a Paper in the Petitioner's Pocket, but that being a Letter to his Solicitor about the managing of his Cause, which the Petitioner thought they could have no Pretence to seize while he was under the Protection of Parliament, he took it again from them and tore it, but they carried a Part of it along with them; they searched also his two Servants below, and took away a Seal from one of them; and those two Servants likewise demanded their Warrant, but they had none to produce; the Petitioner therefore, as a Lord of Parliament, though under Confinement, humbly prays that their Lordships would be pleased to take these Matters into serious Consideration, and grant him such Relief and Protection as their Lordships shall judge proper against such unprecedented, illegal and insolent Usage.

And thereupon a Motion was made, and
 Contents 24 the Question was put, that Colonel
 Not Cont. 56 *Williamson*, the Deputy-Lieutenant
 of the *Tower of London*, Mr. *Serjeant*,
 the Gentleman-Porter, the two Warders who attended
 Colonel *Williamson* Yesterday in the Apartment of the
 Bishop of *Rochester*, Prisoner in the *Tower of London*,
 and the two Servants of the said Bishop attending his Lord-
 ship, do attend the Bar of this House immediately, to give
 an Account of the Matters mentioned in the said Petition?

It was resolved in the Negative.

Dissentient

1st, Because the Petitioner, as a Lord of Parliament and Member of this House, though no Peer of this Realm, hath an unquestionable Right, under all Circumstances,

cumstances, to the Justice and Protection of this House against any Person whatsoever, who, during the Sitting of Parliament, commits any Act of Violence to his Person or Property, which this House may adjudge to be a Breach of Privilege; and therefore as, we conceive, the Facts alledged in the Petition, if the same are true, and no Account given of them by the Persons concerned, to the Satisfaction of this House, are an unwarrantable Attempt upon a Member of this House, we think, that in Justice to the Petitioner, and to the Honour and Privileges of this House, there ought to have been an immediate and impartial Examination by this House of the Persons concerned, we finding no Instance on the Journals of this House, where any Member of the House hath complained, by Petition or otherwise, of the least Violence or Injury to his Person, during the Time of Privilege, wherein the House hath not ordered an Examination of the Facts so complained of.

2^{dly}, Because it appears to us, that the Petitioner being under Imprisonment, and a Bill depending against him in the *House of Commons*, that House having allowed him the Benefit of Council and Solicitors for making his Defence, were proceeding against the Petitioner on that Bill, in all Probability, at the very Time the Matters complained of were transacted; and as that Bill may soon come under the Consideration and Judgment of this House, the seizing the Petitioner's Letter to his Solicitor, or any Thing which may concern his Defence, we are of Opinion, ought to have been examined into, it being, as we conceive, against the Rules of natural Justice, the Laws of all Nations, and the fundamental and known Laws of this Realm, that any Papers or other Things in the lawful Possession of the Person so accused, and which may relate to his Defence, should be forcibly wrested from him; or that any Person, and more especially a Lord of Parliament, being under Imprisonment and Accusation for High Treason, should by Terror or other Violence, be, without just Cause, in any Degree disturbed in or disabled from making his Defence.

3^{dly}, Because the refusing to enter into the Examination of the Matters complained of by the Petition may, in our Opinions, be construed to be a Justification of the Proceedings therein alledged, even though there was not

a reasonable Occasion for the same; and it being suggested in the Petition, that the Deputy-Lieutenant of the *Tower* did affirm to the Prisoner, upon his Salvation, that he had a verbal Order from the Ministry, though he refused to say from whom, and not pretending that what he did was by his own Authority, we are of Opinion that it was of the greatest Consequence to the Honour of his Majesty's Government, that this House should have examined into this Proceeding; and the rather, because we conceive it to be of the highest Importance to the free and impartial Administration of Justice, that this House should on all Occasions discountenance all Appearances of Force, especially on a Lord of Parliament imprisoned and accused of High-Treason.

4thly, Because, we think, that if an unjustifiable Violence be offered to the Person or Privilege of any Member of this House, and not examined into, it may prove an Encouragement to commit the like, if not further Abuses on any other Member of this House in future Times.

Strafford,
Cowper,
Batburſt,
Hay,
Montjoy,

Guilford,
Lechmere,
Scarsdale,
Poulett,
Wefton,

Foley,
Litchfield,
Aſhburnham,
Bingley,
Bruce.

Die Lunæ 29^o Aprilis, 1723.

Hodie 3^a vice lecta eſt Billa, entitled, An Act to inflict Pains and Penalties on *John Plunkett*.

Contents 87 The Question was put, whether this Bill
Not Cont. 34 shall pass?

It was resolved in the Affirmative.

Dissentient'

1st, Because Bills of this Nature, as we conceive ought not to pass but in Case of evident Necessity, when the Preservation of the State plainly requires it; which we take to be very far from the present Case, the Conspiracy having been detected so long since, and the Person accused seeming to us very inconsiderable in all Respects, and who, from the many gross Untruths, it now appears, he has wrote to his Correspondence Abroad, must appear to have been an Impostor and Deceiver even to his own Party.

2dly,

2^{dly}, Proceedings of this Kind, tending to convict and punish, are in their Nature, though not Form, Judicial; and do let the Commons, in effect, into an equal Share with the Lords in Judicature; which the Lords ought to be very jealous of doing, since the Power of Judicature is the greatest distinguishing Power the Lords have; and there will be little Reason to hope, that if Bills of this Nature are given way to by the Lords, the Commons will ever bring up Impeachments, or make themselves Accusers only, when they can act as Judges.

3^{dly}, This Bill, in our Opinion, differs materially from the Precedents cited for it; as to the Case of Sir *John Fenwick*, 'tis plain, by the Preamble of that Bill, that the Ground most rely'd on to justify Proceeding against him in that Manner was, that there had been two legal Witnesses proving the High-Treason against him, that a Bill was found against him on their Evidence, and several times appointed him for a legal Trial thereon, in the ordinary Course, which he procured to be put off, by undertaking to discover, till one of the Evidences withdrew; so that it was solely his Fault, that he had not a legal Trial by Jury; all which Circumstances not being in the present Case, we take it, they are not at all to be compared to one another.

4^{thly}, As to the Acts which passed to detain *Counter* and others concerned in the Conspiracy to assassinate the late King *William* (of Glorious Memory) we conceive, those Acts were not, in their Nature, Bills of Attainder, as this is, but purely to enable the Crown to keep them in Prison, notwithstanding the Laws of Liberty; whereas this is a Bill to inflict Pains and Penalties, and does import a Conviction and Sentence on the Prisoner, not only to lose his Liberty, but also his Lands and Tenements, Goods and Chattles, of which he having none, as we believe, we cannot apprehend why it was inserted, and this Bill now drawn on the Plan of *Counter's* &c. unless it was to make a Precedent for such Forfeitures in Cases of Bills which may hereafter be brought to convict Persons, who have great Estates, upon Evidence which does not come up to what the Law in Being requires.

5^{thly},

that, If there be a Defect of legal Evidence to prove the Act guilty of High-Treason, such Defect always was; and we think if Bills of this Nature, brought to supply original Defects in Evidence, do receive Countenance, they may become familiar, and then many an innocent Person may be reached by them, since 'tis hard to distinguish whether that Defect proceeds from the Cursory and Artifice or from the Innocence of the Party.

Thirdly, The Proceeding by Bill does not, in our Opinion, only tend to lay aside the Judicial Power of the Lords, but over the Use of Juries; which distinguishes the Nation from all its Neighbourhood, and is of the highest Value to all who rightly understand the Security and other Benefits arising from it; and whatever tends to alter or weaken that great Privilege, we think, is an Alteration of our Constitution for the worse, though it be done by Act of Parliament; and if it may be supposed that any of our fundamental Laws were set aside by Act of Parliament, the Nation, we apprehend, would not be at all the more comforted from that Consideration that the Parliament said it.

Fourthly, It is the Essence of Natural Justice, as we think, but it is most surely the Law of the Realm, that no Person should be tried more than once for the same Crime, or twice put in Peril of losing his Life, Liberty or Estate; and though we acquiesce in the Opinion of all the Judges, that if this Bill pass into a Law, *Plunkett* cannot be again prosecuted for the Crimes contained in the Preamble of the Bill, yet it is certain, that if a Bill of this Kind should happen to be rejected by either House of Parliament, or by the King, the Person accused might be attacked again and again, in like Manner, in any subsequent Session of Parliament, or indicted for the same Offence, notwithstanding that either House of Parliament should have found him innocent, and not passed the Bill for that Reason; and we conceive it a very great Exception to this Course of Proceeding, that a Subject may be condemn'd and punish'd, but not acquitted by it.

Fifthly, We think it appears in all our History, that the passing Bills of Attainder, as this, we think, in its Nature is (except as before is said, in Cases of absolute and

lear Necessity) have prov'd so many Blemishes to reigns in which they passed; and therefore weht it our Duty in time, and before the passing this as a Precedent, to give our Advice and Votes against the passing it, being very unwilling, that any thing should pass which, in our Opinions, would in the least abate from the Glory of this Reign.

ly, We apprehend it to be more for the Interest and security of his Majesty's Government, that Bills of that Nature should not pass than that they should; since as who think at all cannot but observe, that in this some things have been received as Evidence, which had not have been received in any Court of Judicature. That Precedents of this Kind are naturally growing, we think, this goes beyond any other which has happened since the Revolution) and if from such like Objections they shall infer, as we cannot but do, that the Liberty and Property of the Subject becomes, by such Principles, in any Degree more precarious than they were before, it may cause an Abatement of Zeal for a Government founded on the Revolution, which cannot, we think, be compensated by any the good Consequences which are hoped for by those who approve this

| | | |
|-----------------------------|-------------------------|--------------------|
| <i>Dale,</i> | <i>Weston,</i> | <i>Graven,</i> |
| <i>Wiggby de Broke,</i> | <i>Hay,</i> | <i>Foley,</i> |
| <i>Att,</i> | <i>Masbam,</i> | <i>Berkeley of</i> |
| <i>Warr,</i> | <i>Brooke,</i> | <i>Stratton,</i> |
| <i>Warr,</i> | <i>Compton,</i> | <i>Aylesford,</i> |
| <i>Warr,</i> | <i>Fran. Cessarius,</i> | <i>Bruce,</i> |
| <i>Warr,</i> | <i>Mantjoy,</i> | <i>Litchfield,</i> |
| <i>Warr,</i> | <i>Uxbridge,</i> | <i>Dartmouth,</i> |
| <i>Warr,</i> | <i>Bingley,</i> | <i>Asbburnham,</i> |
| <i>Warr,</i> | <i>Exeter,</i> | <i>Lechmere,</i> |
| <i>Warr & Mortimer,</i> | <i>Strafford,</i> | <i>Cardigan.</i> |

Die Jovis 20 Maii, 1723.

After hearing Council and Witnesses upon the Bill to alter the Pains and Penalties on *George Kelly*, alias *Johnson*, on behalf of the said *Kelly*,
And Debate thereupon,

The

The Question was put, that the Council for the Prisoner may be at liberty to proceed as they desired to examine Witnesses to prove, by several Circumstances, that the Letters dated the 20th of *April* 1722, given in Evidence for the Bill, were not dictated by the Bishop of *Rochester* to the Prisoner *George Kelly*?

It was resolved in the Negative.

Dissentient

1st, Because it was insisted on by the Prisoner's Council, that the Proof desired was necessary to his Defence, and if allowed to be made would contribute to satisfy the House of the Prisoner's Innocence of the Crimes charged on him by the Bill; for which Reason alone, if there was no other, we think the Witnesses ought to have been examined, it being, in our Opinions, against the constant Course and Rules of Justice, in criminal Proceedings of all kinds, to preclude the Prisoner's Defence by refusing to hear his Witnesses, if they are legal and competent, and in Derogation of the Honour and Justice of the House, on this Occasion, to anticipate the Judgment of the House in the least Circumstance which the Prisoner or his Council insist on to be material to his Defence, and which may, if proved, be of Weight in the Consideration and Judgment of the House.

2^{dly}, It appears to us to tend directly to prove the Guilt or Innocence of the Prisoner, to discover, whether the Bishop of *Rochester* did dictate to the Prisoner the Letters mentioned in the Question; because it was declared to the House by the Council for the Bill, in opening the Charge against the Prisoner, that the Letters, though wrote by the Prisoner, were dictated to him by a greater Person; and although the Council for the Bill when called upon did not think fit to name that greater Person, yet it being suggested in the Report of *the House of Commons*, communicated to this House, and it being universally supposed hitherto, that the Bishop of *Rochester* did dictate the said Letters to the Prisoner, it became, in our Opinions, incumbent on the Prisoner to give the House what Satisfaction he could in that Particular, the same being made a Circumstance and Part of the Accusation against him, and if falsified, or rendered in-

incredible, might influence the Judgment of the House in other Circumstances.

3dly, Because the Declaration of *Philip Neynoe* deceased, though not signed or sworn by him, hath been allowed by the House to be read and given in Evidence, in Proof of the particular Facts charged on the Prisoner in the Bill; in which Declaration the Prisoner is expressly charged by the said *Neynoe* to have frequently told him, that the Bishop of *Rocheſter* held Correspondences with the *Pretender* and the *Pretender's* Agents, and that the Prisoner was employ'd by the Bishop in writing for him, and carrying on the said Correspondences, and that he had several times left Mr. *Kelly* at the Bishop's Door, when Mr. *Kelly* went into the Bishop's House and stayed there an Hour or two, and upon coming back to him that the Prisoner made Apologies for staying so long, and told him he had been writing the Bishop's Letters, which he always apprehended to be the foreign Correspondence of the Bishop with the *Pretender's* Agents; for which Reason also, we conceive, the Proof desired ought to have been received, because it may be thought a Denial of Justice, by this House, to the Prisoner, not to permit him to answer, even by legal Evidence, the particular and direct Evidence, which the House hath allowed to be given against him.

4thly, Although the Prisoner may be guilty of a treasonable Correspondence, if he wrote the Letters mentioned in the Question, and the same were not dictated to him by any Person whatsoever, yet the Facts charged in the Bill, having been endeavoured to be proved, not by direct Proof of the Facts themselves, but by Circumstances, in our Opinions, the Prisoner's Defence must be applied to answer the several Circumstances; and it is, as we conceive, equally unjust to deny him the Liberty of falsifying that Circumstance of his writing the Letters, being dictated to him by the Bishop, as it would be, to refuse to allow him to prove, that the said Letters were not, or could not be wrote, or sent to the Persons to whom they are suggested or charged to have been wrote or sent, or to refuse him to prove by Circumstances, that the Prisoner himself did not or could not write the same, at the particular Times and Places the same are suggested

to be so wrote or sent by him, or to deny him Liberty to falsify, by Circumstances, any other Circumstance relating to the supposed treasonable Correspondence charged on him by the Bill.

5thly, The Council for the Bill having alledged, as one Reason against the Examinations desired, that they were not prepared to answer that Evidence, might have been a Ground for the House to have allowed them a reasonable Time for such Preparation; but in our Opinions that Consideration ought not to weigh against the Prisoner's giving the Evidence to the House which he was prepared to give, especially since it was alledged, that the Examinations now desired were desired on the Prisoner's Part to have been made at the Bar of *the House of Commons*, and thereby so long ago publicly notified by the Prisoner.

6thly, Because the Refusal of the Proof of any Circumstance of the Prisoner's Defence, if such Refusal be not just, must in its Consequence affect the Justice of the whole Proceeding against the Prisoner, because it deprives the House of the Liberty of forming a Judgment upon the whole Case, and tends, so far as that Particular goes, to subject this Proceeding against the Prisoner to the Objection of Partiality, which is most highly dishonourable to this House, especially considering the Latitude which hath been allowed in other Parts of the Examination on this Occasion.

| | | |
|-------------|-----------------------|-----------------------|
| Gower, | Leigh, | Wharton, |
| Guilford, | Tadcaster, | Arundell, |
| Strafford, | Bathurst, | Masbam, |
| Litchfield, | Pomfret, | Foley, |
| Cowper, | Northampton, | Willoughby de Brooke, |
| Trevor, | Berkeley of Stratton, | Brooke, |
| Osborne, | Denbigh, | Bingley, |
| Montjoy, | Scarsdale, | Ashburnham, |
| Poulett, | Stawell, | Uxbridge, |
| Craven, | Anglesey, | Exeter, |
| Compton, | Cardigan, | Salisbury, |
| Bruce, | Fran. Cestriens, | Hay, |
| Lechmere, | Dartmouth, | Aylesford, |
| Middleton, | Weston, | |

Die Veneris 3^o Maii, 1723.

Hodie 3^a vice lecta est Billa, entitled, An Act to inflict Pains and Penalties on *George Kelly*, alias *Johnson*.

Contents 79

Not Cont. 48

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because, we think, there is no Reason for the Legislature to pass a Law, *ex post facto*, to punish this Person for the treasonable Correspondence he is guilty of; he being in Custody, and may be brought to a legal Trial in one of the Courts of Justice.

2^{dly}, We conceive the Want or Defect of such clear and plain Evidence as, by the Laws of this Kingdom, is required to convict any Person of High-Treason, no sufficient Reason to warrant the Exercise of the Legislative Power in making a new Law for his Punishment, because such Laws being made for the Protection of innocent Persons from suffering by false, uncertain or doubtful Evidence, every Subject is intitled to the Benefit of those Laws, when he shall fall under an Accusation of High-Treason.

3^{dly}, Because, as we conceive, by the Rules of natural Justice Laws ought to be first made, as Directions for Mens Actions and Obedience, and Punishment inflicted for putting those Laws in Execution against Offenders; and that therefore punishing by a Law made after the Offence committed is not agreeable to Reason or Justice, except only in the Case of real and apparent Necessity to prevent the immediate Ruin of a Government, which we do not think to be the present Case, or can bear any Resemblance to it.

4^{thly}, Because the Proceedings of the Legislative Power, in making Laws, can be governed by no Rule but that of their own Discretion and Pleasure; and therefore the making Laws to inflict Pains and Penalties on particular Persons must, as we conceive, tend to expose the Lives, Liberties and Properties of the Subjects to an arbitrary Discretion; and consequently render them precarious in the Enjoyment of those Blessings, which by
out

our excellent Constitution and Government they have always had an uncontrollable Right to hold and enjoy, till forfeited for some Crime, and the Person offending legally convicted thereof, upon such full and positive Proof as the Laws of this Kingdom do require.

5^{thly}, Because, as we conceive, it would be of dangerous Consequence to the Safety of innocent Persons to allow Copies of Letters taken by the Clerks of the Post-Office, though sworn by them to be true Copies, to be given in Evidence against any Person accused of High-Treason, especially when such Copies are not compared with the Originals after they were taken, and the original Letters forwarded on by them, and not produced, because the Originals not being produced, such Person is deprived of an Opportunity of falsifying those Copies; and though there should be any Mistake committed by the Clerk in copying, whether wilfully, or by Negligence, such Mistake cannot be detected for Want of the original Writings to compare the Copies with.

6^{thly}, Because the Proof of Letters or other Writing in Criminal Prosecutions, by Similitude and Comparison of Hands, being, as we conceive, a very slight and weak Evidence, because Hands may be too easily counterfeited, and the Persons examined cannot speak positively, but to their Belief, and therefore not liable to be prosecuted for Perjury, hath, as we conceive, very justly been discouraged in such Times, when the Administration of Justice hath been most impartial; and Convictions of High-Treason, grounded on such Evidence, have been reversed, by Act of Parliament, for that and other Reasons.

*Pomfret,
Fr. Cestriens',
Strafford,
Middleton,
Aylesford,
Bathurst,
Litchfield,
Weston,
Salisbury,
Brooke,
Hay,*

*Osborne,
Compton,
Bruce,
Trevor,
Cardigan,
Exeter,
Stawell,
Anglesey,
Gower,
Masbam,
Bingley.*

*Scarsdale,
Denbigh,
Wharton,
Northampton,
Craven,
Guilford,
Poulett,
Dartmouth,
Foley,
Montjoy,
Tadcaster,
Wil.*

*Willoughby de Brooke, Uxbridge, Arundell.
Asburnham, Berkeley of Str.*

Die Martis 7^a Maii, 1723.

After hearing Council and Witnesses for the Bill to inflict Pains and Penalties on *Francis* Lord Bishop of *Rochester*,

The Question was put, that it is the Opinion of this House, that it is inconsistent with the publick Safety as well as unnecessary for the Prisoner's Defence, to suffer any farther Inquiry to be made upon this Occasion into the Warrants which have been granted by the Secretaries of State for the stopping and opening of Letters which should come or go by the Post, or into the Methods that have been taken by the proper Officers at the *Post-Office*, in Obedience to such Warrants?

It was resolved in the Affirmative.

Dissentiens'

1st, We humbly apprehend that in all Criminal Prosecutions the Cross-examining of Witnesses is necessary for the Defence of the Prisoner, and for the Satisfaction of those who are to judge of the Facts alledged against him, in order to the discovering of Truth, and detecting any fraudulent Evidence which should be offered; and the Resolution above recited does, in our Opinions, debar the Bishop of *Rochester*, and every other Person concern'd, from asking any Questions of the Clerks of the *Post-Office*, who are brought as Witnesses to the Bar, relating to the stopping and opening the Post-Letters, though Letters pretended to be stopped and opened at the *Post-Office* are read as Evidence against the Prisoner; and we conceive, that the preventing any farther Inquiry on these Heads must lay this House under great Difficulties, when they come to form a Judgment on those Letters, the Validity of which will in a great measure depend on the Proof given of their having been truly stopped and opened as asserted.

2^{dly}, We apprehend it to be impossible for this House to determine, that the Inquiry which is desired is unnecessary to the Defence of the Prisoner, till he shall come to make the Application; and we conceive, he should have

have the Liberty of asking what Questions he or his Council think proper of the Clerks of the *Post-Office*, relating to the stopping and opening of Letters, without acquainting the House what Use he intends to make of their Answers; and this appears to us to be highly reasonable, essential to Justice, and warranted by the Methods which this House has hitherto allowed the Council for the Support of the Bill to proceed in, who have, during the whole Course of this Examination, reserved the Application of the Evidence they have offered till they should judge convenient to make it.

| | | |
|-------------------------|-------------------|----------------------------|
| <i>Northampton,</i> | <i>Strafford,</i> | <i>Wharton,</i> |
| <i>Foley,</i> | <i>Poulett,</i> | <i>Willoughby deBroke,</i> |
| <i>Abburnham,</i> | <i>Compton,</i> | <i>Scarsdale,</i> |
| <i>Litchfield,</i> | <i>Bruce,</i> | <i>Anglesy,</i> |
| <i>Exeter,</i> | <i>Crawen,</i> | <i>Bathurst,</i> |
| <i>Brooke,</i> | <i>Bingley,</i> | <i>Masham,</i> |
| <i>Aylesford,</i> | <i>Pomfret,</i> | <i>Osborne,</i> |
| <i>Fran. Cestriens,</i> | <i>Trevar,</i> | <i>Gowen,</i> |
| <i>Uxbridge,</i> | <i>Hay,</i> | <i>Montfey,</i> |
| <i>Denbigh,</i> | <i>Weston,</i> | <i>Cardigan,</i> |

Die Sabbati 11^o Maii, 1723.

After hearing Council further against the Bill to inflict Pains and Penalties on *Francis Lord Bishop of Rochester*, and the said Bishop in his own Defence,

The Question was put, that *George Kelly*, alias *Johnson*, now a Prisoner in the *Tower of London*, be brought to the Bar of this House on *Monday Morning* next, to be examined upon Oath on the Bill entitled, *An Act to inflict Pains and Penalties on Francis Lord Bishop of Rochester?*

It was resolved in the Negative.

Dissentient

1st, Because we think it unquestionable that the said *Kelly* is a competent legal Witness to the Matters charged by the Bill against the Bishop, and could not be legally refused to be sworn as such, if the Bishop were on his Trial for the same in the ordinary Course of Justice, and that, whether the said *Kelly* was produced either for or against the Bishop; and, we conceive, if the Council for the Bill had thought fit to have produced him in Support

port of the Bill, that even no legal Objection could have been made by the Bishop's Council against his being so produced and sworn, the Bill passed this House against the said *Kelly* not having received the Royal Assent, and there not being in the said Bill, in our Opinions, any thing that can destroy even his legal Testimony, when the same is passed into a Law.

2^{dly}, Because the three Letters, dated the 20th of April, 1722, supposed to contain treasonable Correspondences with the *Pretender* and some of his Agents, have been made the principal Charge against the Bishop, and have been endeavoured to be proved to have been dictated to the said *Kelly* by the Bishop, at or about the Time of their Date; but this not being as yet done, as we think, by direct or positive Proof by any living Witness of the Fact, but by Circumstances only, we think it most proper, and most safe and just, to endeavour to discover the Truth of that material Fact, by the best Evidence the Nature of the Thing can admit of; and that this House should not be left under the Difficulties of judging on this extraordinary Occasion from doubtful Circumstances, if the Fact may be cleared by certain positive Proof, and the Examination of a competent and a living Witness upon Oath at the Bar of this House.

3^{dly}, Because several living Witnesses having been examined on Oath at the Bar of the House, on behalf of the Bishop, in order to prove by their positive Testimony and other Circumstances, that the Bishop did not dictate or direct, or was any way privy to the Writing the said Letters, or any of them, which has, in our Judgments, render'd it of yet greater Importance, that the supposed Writer of those Letters should be brought under the most strict and solemn Examination before the Bill has passed this House.

4^{thly}, Because the said *Kelly*, though examined before Committees of both Houses of Parliament, and elsewhere, hath not, to our Knowledge, been yet examined upon Oath to the Matters contained in this Bill; and it having appeared to us, in other Instances on this Occasion, particularly of *Mrs. Barnes*, examined for the Bill, and of *Blagden* against it, who have materially varied their Examinations at the Bar of this House from

their former Examinations, at the same Time declaring their former Examinations were not taken and sworn to by them; we think it may be both dangerous and derogatory to the Honour and Justice of the House, not to examine on Oath a Person capable of discovering the Matters of Fact, on which the Justice of the Bill against the Bishop must depend, and especially after the said *Kelly* hath declared in the most solemn Manner, next to that of his being upon Oath, that the Bishop did not dictate, or was privy to the Writing the said Letters, or any of them; and the Bishop himself, in his Defence, having also, in the most solemn Manner of Affirmation, declared his Innocence in this Particular, and expressly referring to the former Affirmations of the said *Kelly*, as we conceive, as a Testimony in Confirmation of his own Affirmations.

Truly, Because, we conceive, that the said *Kelly* was not only a legal Witness for or against the Bishop, in the strictest Construction of Courts of Judicature, but the Examination of him upon Oath, on this Bill, is in every respect whatsoever, in our Judgments, less liable to Objection than in any or most other Evidences, which on this Occasion have been allowed, because the Bill passed by this House against the said *Kelly*, if it obtains the Royal Assent, as is most probable, doth (in Judgment of Law, as hath been declared by the Judges) acquit him of any further Prosecution for the said Treasons therein charged upon him; and there is no Judgment or Punishment inflicted upon him in the said Bill, which can, when passed, destroy his Capacity of giving Evidence on any Occasion; and the same being passed by this House, and not passed the Royal Assent, leaves the said *Kelly*, in our Opinions, under less Influence either of Hopes or Fears, than such Witnesses which have been examined on this Occasion under Commitments and Charge of High-Treason; and, as we conceive, less liable to that Objection than the Declaration of *Philip Neynos*, which has been read against the Bishop, though never signed or sworn to by him, and the said *Neynos*, some Months since, drowned in endeavouring his Escape, and which Declaration appears to us to have been made by him under the strongest Influences of Guilt and Terror.

, We think the Crimes charged in the Bill against *Kelly* are in their Nature distinct and Independent those charged upon the Bishop, *Kelly's* Guilt in the said treasonable Letters proved upon him the same, though the Bishop be altogether innocent relation thereto; for which Reasons, as we on this House did refuse to permit *Kelly* on his Bill Evidence, that the Bishop did not dictate the said Letters; for which Reason, we are of Opinion, that the Evidence which *Kelly* might have given touching the Bishop's dictating the said Letters, or not, would have had no Consequence at all, with regard to the Bill against himself, though it must necessarily have been admitted to the Proof of the Guilt or Innocence of the Bishop.

ly, This House having, with great Honour and Justice declared to several Persons produced as Witnesses on this Occasion, that it was not required from them to swear to any Thing which did or might tend to their Accusation, the Testimony of the said *Kelly*, if he had been examined on Oath, we doubt not, would have been taken under the same just Indulgence; and if he had been admitted to have been examined on Oath to the Support of this Bill, such his Examination being in that manner voluntary could not, in our Opinions, have been used as forced from him by the Authority of this House; and such Testimony as he might have given would have remained under the Consideration and Judgment of this House, as to its Credit and Influence, on all other Instances, in the same Manner as the other Evidence admitted against the Bill still does.

| | | |
|-------------|-------------------|-----------------------------|
| <i>Mr.</i> | <i>Gower,</i> | <i>Litchfield,</i> |
| <i>Mrs.</i> | <i>Brooks,</i> | <i>Uxbridge,</i> |
| <i>Mr.</i> | <i>Middleton,</i> | <i>Hay,</i> |
| <i>Mrs.</i> | <i>Denbigh,</i> | <i>Stratford,</i> |
| <i>Mr.</i> | <i>Scarsdale,</i> | <i>Northampton,</i> |
| <i>Mr.</i> | <i>Dartmouth,</i> | <i>Anglesey,</i> |
| <i>Mr.</i> | <i>Salisbury,</i> | <i>Berkely of Stratton,</i> |
| <i>Mr.</i> | <i>Foley,</i> | <i>Poulett,</i> |
| <i>Mr.</i> | <i>Massam,</i> | <i>Abburnham,</i> |
| <i>Mr.</i> | <i>Cardigan,</i> | <i>Guilford,</i> |

O. 3.

Agles

*Aylesford,
Horsford,*

*Exeter, Craven.
Wharton,*

Die Mercurii 15^o Maii, 1723.

Modo 3^a vice lecta est Billæ, entitled, An Act to inflict Pains and Penalties on Francis Lord Bishop of Rochester.

Contents 83 The Question was put, whether this Bill.
Not Cont. 43 shall pass?
It was resolved in the Affirmative.

Dissentiens'

1st, Because the Objection which we thought lay against the Bills of *Plunkett* and *Kelly*, that the Commons are thereby, in effect, let into an equal Share of Judicature with the Lords, does hold stronger, as we apprehend, against the present Bill, since by means of it a Lord of Parliament is, in part, tried and adjudged to Punishment in *the House of Commons*, and reduced to a Necessity either of letting his Accusation pass undefended in that House, or of appearing there, and, as we take it, derogating from his own Honour, and that of the Lords in general, by answering and making his Defence in the Lower House of Parliament.

2^{dly}, Because we are of Opinion, that the Commons would be very far from yielding to the Lords any Part of those Powers and Privileges which are properly theirs by the Constitution, in any Form or under any Pretext whatsoever; and it seems to us full as reasonable, that the Lords should be as tenacious of the Rights and Privileges which remain to them as the Commons are on their Part.

3^{dly}, We think this Bill, against a Lord of Parliament, taking its Rise in *the House of Commons*, ought the rather not to have received any Countenance in this House, for that, as it appeared to us by the printed Votes of *the House of Commons*, that House had voted the Bishop guilty of all the Matters alledged against him in the Bill, before the Bill was brought into that House, and consequently before the Bishop had any Opportunity of being heard; and although there be nothing absurd in passing such a Vote in order to their accusing by an Impeachment, yet it seems to us absolutely contrary to Justice.

which ought to be unprejudiced, to vote any one against whom they design to proceed in their Legislative Capacity, or in the Nature of Judges, before they have an Opportunity to be heard on the Bill which ascertain the Accusation, or it is so much as brought

bly, We are of Opinion; that no Law ought to be made on purpose to enact, that any one be guilty in; and punished as such, but where such an extraordinary Proceeding is evidently necessary for the Preservation of the State; whereas the Crime offered to be proved against the Bishop of *Rochester* is, as we apprehend, partaking in a traiterous Conspiracy against the Government; which Conspiracy (by God's Blessing) is detected, and, as we hope, disappointed, without the necessity of such dangerous Proceeding as we conceive this

bly, Because there are certain known and established Rules of Evidence, which are Part of the Law of the Land, either introduced by Acts of Parliament, or framed by Reason and the Experience of Ages, adjusted as they are for the Defence of the Life, Liberty, and Property of the Subject, as the Punishment of the Guilty; and before these Rules are, or ought to be, constantly added to, in all Courts of Justice; and, as we conceive, should be also observed, till altered by Law in both Houses of Parliament, whenever they try, judge and punish the Subject, tho' in their Legislative Capacity: But, in many Instances, in this and the two other Proceedings by Bill, we have been taught the Opinion of the House, that these Rules of Evidence need not be observed by the Houses acting in their Legislative Capacity: we clearly take it to be a very strong Objection to the Manner of Proceeding, that Rules of Law made for the Security of the Subject are of no Use to him in this; and that the Conclusion from hence is very strong, therefore it ought not to be taken up, but where it is really necessary, as before affirm'd; and we desire to explain ourselves so far upon the Cases of Necessity admitted, as to say, we do not intend to include a Necessity arising purely from an Impossibility of convicting any other way.

6thly, If it be admitted, that traitorous Correspondences in Cyphers and Cant-Words may, to a degree, be discouraged by this Sort of Proceeding, in which Persons, as we think, are convicted on a more uncertain Evidence than the known Rules of Law admit of, yet, we are of Opinion, that Convenience will be much more than out-weighed by the Jealousy it must of necessity, as we conceive, create in the Minds of many of his Majesty's most faithful Subjects, that their Lives, Liberties and Properties are not so safe, after such repeated Examples, as they were before; and by the natural Consequence of this Apprehension, an Abatement of their Zeal for the Government may ensue, excepting such Persons as have had more than ordinary Opportunities of being well instructed in Principles of the utmost Duty and Loyalty.

7thly, We cannot be for the passing this Bill, because the Evidence produced to make good the Recital of it, or that the Lord Bishop of *Rocheſter* is guilty of the Matter he therein stands accused of, is, in our Opinion, greatly defective and insufficient, both in Law and Reason, to prove that Charge; the Evidence consisting altogether, to the best of our Observation, in Conjectures arising from Circumstances in the intercepted Letters, of on a Comparison of Hand-writings, resting on Memory only, and there being, as we think, no Proof of the Bishop's knowing of, or being privy to any of the said Correspondence; and as to the principal Part of the Charge against the Bishop, and on which, as we think, all the rest does depend, viz. the dictating the Letters of the 20th of *April*, 1722, which the *House of Lords* seem to have determined that *Kelly* wrote, we are of Opinion, that the Bishop has in his Defence very clearly and fully proved, that he did not, nor possibly could, dictate those Letters, or the Substance of any Part of them, to *Kelly*, either on the Day of their Date, or at any Time during several Days next before or next after the Day of their Date, nor was in any Capacity to write them himself, tho' the Letters must have been wrote within that Compass of Time; and we are, on the whole, of Opinion, that the Proof and Probability of the

the Lord Bishop of *Rocheſter's* Innocence, in the Matters he ſtood charged with, were much ſtronger than thoſe of Guilt.

| | | |
|--------------------|------------------------------|--------------------------|
| <i>Scarſdale,</i> | <i>Willoughby de Broke,</i> | <i>Cardigan,</i> |
| <i>Bruce,</i> | <i>Pomfret,</i> | <i>Franc. Caſtricus,</i> |
| <i>Salisbury,</i> | <i>Hereford,</i> | <i>Angleſey,</i> |
| <i>Poulett,</i> | <i>Bingley,</i> | <i>Litchfield,</i> |
| <i>Dartmouth,</i> | <i>Osborne,</i> | <i>Foley,</i> |
| <i>Craven,</i> | <i>Gower,</i> | <i>Flay,</i> |
| <i>Ayleſford,</i> | <i>Guilford,</i> | <i>Trevoor,</i> |
| <i>Aſhburnham,</i> | <i>Gower,</i> | <i>Uxbridge,</i> |
| <i>Batburſt,</i> | <i>Strafford,</i> | <i>Compton,</i> |
| <i>Weſton,</i> | <i>Danbigh,</i> | <i>Maſham,</i> |
| <i>Arundell,</i> | <i>Northampton,</i> | <i>Middleton,</i> |
| <i>Exeter,</i> | <i>Montjoy,</i> | <i>Brooke,</i> |
| <i>Oxford and</i> | <i>Berkeley of Stratton,</i> | <i>Stanwell.</i> |
| <i>Mortimer,</i> | | |

I diſſent from the ſixth and ſeventh Reaſons of the foregoing Proteſtation, and for the following Reaſons :

1^{ſt}, Becauſe this extraordinary Method of proceeding by Bills of this Nature againſt Perſons who do not withdraw from Juſtice, but are willing to undergo a legal Trial, ought, in my Opinion, to be ſupported by clear and convincing Evidence ; and, I apprehend, there has been nothing offered to ſupport the Allegations ſet forth in the Preamble of the Bill to inflict Pains and Penalties on *Francis* Lord Biſhop of *Rocheſter* but what depends on decyphered Letters, forced Conſtructions, and improbable *Iauendo's*.

2^{dly}, I conceive, that the Examination of *Philip Neynos* taken before the Lords of the Council, not ſworn to, nor ſigned, which appears to me to be the Foundation on which the Charge againſt the Biſhop of *Rocheſter* is built, has been, in my Apprehenſion, ſufficiently proved, by the poſitive Oaths of three Perſon, two of which have been for ſeveral Months in ſeparate Cuſtodies, confirmed by other Circumſtances, to have been a falſe and malicious Contrivance of the ſaid *Neynos*, to ſave himſelf from the Hands of Juſtice, and to work the Deſtruction of the Biſhop of *Rocheſter*.

3dly, I do not apprehend, that the Letters of the 20th. of *April*, which are suggested to be wrote by *George Kelly*, alias *Johnson*, and dictated by the Bishop, have been sufficiently proved to be the Hand-writing of the said *Kelly*; but, on the contrary, it appears, to the best of my Judgment, that the Letter of the 20th. of *August* (stopt at the Post-Office, and from which the Clerks of the Post-Office, on their Memory only, swear they believe the said Letters of the 20th. of *April* to be the same Hand-writing, tho' they never compared two original Letters together during all that Time) has been proved by three credible Witnesses, concurring in every Circumstance of their Testimony, and well acquainted with the Hand-writing of the said *Kelly*, not to be his Hand-writing; and, I conceive, that the Difference they observed in the Hand of the said *Kelly*, upon which they ground their Opinions, is sufficiently supported, by comparing the said Letter of the 20th. of *August* with the Letters wrote by the said *Kelly* to the Lord *Townshend* and Mr. *Delafaye* during the Time of his Confinement.

4thly, I do not apprehend; that any Proof has been offered to support what has been so much insisted on, and justly esteemed essential to the Charge, that the Bishop of *Rochester* dictated the Letters of the 20th. of *April*; but it has appeared, I conceive, that there has been no Intimacy between the Bishop and the said *Kelly*; and the Testimony of the Bishop's Servants concurring with the Evidence given on that Head by the Persons that *Kelly* lived in the strictest Correspondence with, leaves, to the best of my Judgment, no room to doubt, but that the Acquaintance between them was slender and publick; and to suggest from thence, that the Bishop dictated the Letters of the 20th. of *April*, when it appeared that for many Days before he could not possibly see the said *Kelly*, is, in my Opinion, repugnant to Reason, and contrary to Justice.

Wharton.

Die Lunæ 16^o Martii, 1723.

Hodie 3^a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

The

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the keeping on Foot a greater Army in time of Peace, tho' by Consent of Parliament, then is absolutely necessary for the Security of his Majesty's Person and Government, is, we conceive, very dangerous to our happy Constitution; and we cannot but apprehend, the Number of Men allowed by this Bill to be much greater than is necessary for that End.

2^{dly}, Because the Conspiracy mentioned in his Majesty's Speech at the opening of the last Session of Parliament, which was the Occasion of an Addition of about four thousand Men, is now at an end; and therefore the Cause of raising that additional Number being perfectly removed, there does not appear to us the least Colour of Reason for continuing of that Number.

3^{dly}, Because, as we conceive, the continuing so great a Number of Men, this Year, will be a Precedent of too great Weight for continuing the same Number of Troops in Perpetuity; for we cannot, with any Possibility, foresee or expect that, in any future Time, there will be less Reason to be given, than at present, for justifying the Necessity of keeping up so great an Army; there being at this Time, in our Opinion, as little Danger to our present happy Establishment, to be feared either from Insurrections at home, or by any Disturbance or Invasion from abroad, as the Nature and Instability of human Affairs will well allow of; and we cannot think, the Fears of remote or imaginary Dangers a sufficient Argument for so great a present Mischief as such an Army must bring upon the Kingdom, not only from the great Charge and Expence of maintaining them, when we are involved in so great a Debt, but also from the Jealousies which may from thence arise in the Minds of many of his Majesty's good Subjects of their Liberties thereby being endangered; and we cannot but be apprehensive, that if so numerous an Army be agreed to in Parliament for some time longer, no Argument can hereafter be urged for reducing the Number in any future Reign, but what will seem to carry with it too great a Distrust of the Prince then in Possession of the Throne:

and

and will be thought to imply, that the same Trust and Confidence is not to be reposed in him as in his Predecessors; and this may discourage some Persons hereafter from giving their Advice to the Crown, upon this most important Subject, with that perfect Freedom which ought ever to maintain and exert itself in the Debates and Resolutions of this great Council.

| | | |
|-------------------|------------------------|------------------------|
| <i>W. Eber,</i> | <i>Wotton,</i> | <i>Litchfield,</i> |
| <i>Strafford,</i> | <i>Aylesford,</i> | <i>North and Grty,</i> |
| <i>Trever,</i> | <i>Bristol,</i> | <i>Boyle,</i> |
| <i>Foley,</i> | <i>Bingley,</i> | <i>Gower,</i> |
| <i>Compton,</i> | <i>Scarsdale,</i> | <i>Montjoy,</i> |
| <i>Bathurst,</i> | <i>Fra. Ceffriens,</i> | <i>Unbridge,</i> |
| <i>Wharton,</i> | <i>Guilford,</i> | |

Die Jovis 18^o Martii, 1724.

Hodie 3^a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient:

For the Reasons enter'd in the Journals the 24th of February 1717, the 21st of December 1721, the 16th of February 1722, and the 16th of March 1723; which, we conceive, are much stronger against continuing the present Number of Forces, when Peace abroad, and Tranquillity at home, are avowedly established on as solid and lasting a Foundation as the Nature of human Affairs will admit.

| | | |
|-------------------|-----------------|------------------------|
| <i>Scarsdale,</i> | <i>Wharton,</i> | <i>Strafford,</i> |
| <i>Bingley,</i> | <i>Montjoy,</i> | <i>Fra. Ceffriens,</i> |
| <i>Abburnham,</i> | <i>Boyle,</i> | <i>Litchfield,</i> |
| <i>Compton,</i> | <i>Foley,</i> | <i>Bathurst,</i> |

Die Martis 13^o Aprilis, 1725.

A Bill for regulating Elections within the City of London, and for preserving the Peace, good Order and Government of the said City, being read the third Time,

It was proposed to ask the Opinion of the Judges, whether this Bill does repeal any of the Prescriptions, Privileges, Customs, or Liberties of the City of London.

restored to them, or preserved by the Act passed in the second Year of King *William* and Queen *Mary*, for reversing the Judgment in a *Quo Warranto* against the City of *London*, and for restoring the said City to its ancient Rights and Privileges?

Which being objected to, and Debate had thereupon, The Question was put, whether the Judges shall deliver their Opinions upon the said proposed Question?

It was resolved in the Negative.

Dissentient?

1st, Because it being enacted and declared by the Act mentioned in the Question, That the Mayor, Commonalty, and Citizens of *London*, shall for ever hereafter remain, continue, and be, and prescribed to be, a Body-Corporate, *in re facto Et nomine*, by the Name of Mayor, and Commonalty and Citizens of the City of *London*, and shall (as by Law they ought) peaceably enjoy all and every their Rights, Gifts, Charters, Grants, Liberties, Privileges, Franchises, Customs, Usages, Constitutions, Prescriptions, Immunities, Markets, Duties, Tolls, Lands, Tenements, Estates, and Hereditaments whatsoever, which they had (or had a Right, Title or Interest in or to) at the Time of giving the said Judgment; and we being apprehensive, that the Alterations made by this Bill in the Constitution of the Common-Council, and other ancient Rights, Franchises, and Prescriptions of the City, may utterly abolish the ancient legal Title of the City to their Rights, Franchises, Prescriptions, and Constitutions in the Particulars contained in the said Bill; and may, in Consequence thereof, work a total Change of the whole ancient Constitution of the Corporation of the said City, or greatly confound or prejudice the same, which has stood for so many Ages upon the Foundation of its ancient Title, Rights, and Prescriptions, confirmed by many Grants made by his Majesty's Royal Progenitors, and by many Acts of Parliament; all which were restored so soon after the happy and glorious Revolution, and which have been peaceably enjoyed to the present Time: We are of Opinion, that the Solution of the said Question, by the Judges, must have tended greatly to the necessary Information

of

of this House, and to their better Judgment, upon a Bill of so great Importance, as well as to the Satisfaction and Quiet of the Citizens of *London*; who, so far as we can collect from the Petitions against the Bill, are greatly alarmed at the Consequence thereof; and we are of Opinion, that it was the more necessary, and the more confident with the Wisdom of this House, to be informed of the Law, by the Judges, upon the Question proposed, because we don't find in this Bill any Saving or Confirmation of any of the ancient Titles, Rights, Prescriptions, Privileges, or Franchises of the said City, restored to them by the former Law.

2dly, We think the Question ought to have been proposed to the Judges, the rather because the Opinions of several Council were admitted to be read, at the Bar of the Committee of the whole House, in Favour of the said Bill.

Bathurst,

Bingley,

Gower,

Lechmere,

Stratford,

Litchfield;

Coventry,

Abingdon,

Montjoy,

Wharton,

Brace,

Arundell,

St. John de Blaise,

Paley,

Fra. Cestriens.

Bristol,

Then after long Debate,

Contents 79 The Question was put; whether this Bill,

Not Cont. 27 with the Amendments, shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because we apprehend, that the Penalty of two hundred Pounds upon the Officer presiding at Wardmote-Elections, as well as at Elections even for Members of Parliament, is so small, that it may be construed into an Indemnification, and be looked upon rather as an Encouragement than a Restraint by a wealthy, partial and arbitrary Officer; at least, we are of Opinion, that such a one will not be sufficiently deterred by it from returning such Candidates as he likes, rather than such as the City chooses; and if ever that melancholy Case should happen, we fear neither the Candidates nor Voters will be able to find an effectual Method of doing Justice for so flagrant an Injury, either to themselves or to the Nation.

2dly, Because we cannot but think, from the Evidence given at the Bar, that this Bill will take away
from.

from many Citizens their Right of voting in Wardmote Elections, by giving an Exclusion to all that inhabit Houses under ten Pounds a Year; even tho' they pay all Parish Duties, or thirty Shillings in Lieu of them; which we conceive an unjustifiable Hardship upon those who may have long enjoyed that Right, and have had no Crime objected to them, much less proved, as we think it ought to be, before they can justly be deprived of it.

3dly, Because, by this Bill, no Act is to pass in Common-Council for the future, except what relates to the Nomination of some few Officers, without the Assent of the major Part of the Mayor and Aldermen present in such Common-Council; which, we conceive, will give too great an Addition of Power to the Mayor and Aldermen, who have already many and large Prerogatives incontestably allowed them by the Commonalty of the City; and tho' the Council for the Bill insisted that the Mayor and Aldermen had anciently that Right which this Bill establishes, yet the Proof of that Right appeared to us so remote and obscure, that we own ourselves too short-sighted to discern it; and on the other Side it appeared plain to us, that even from the Time of incorporating the City to this present Time, such a Claim has very seldom been made, and that it has never been acknowledged; and therefore, we conceive, if there be any Foundation for such a Right, which we are far from thinking there is, the Dispute should be decided first in the inferior Courts of Justice, and rather determined in the House of Lords upon an Appeal, than ended by an Act of Parliament; which seems to us such a Method of determining Controversies of this Nature, as may prove of the most dangerous Consequence to the Rights and Properties of all the Subjects of Great-Britain.

4thly, Because this Bill abolishes the Custom relating to the Distribution of the personal Estates of Free-Citizens; which is a Custom not only of great Antiquity but seems to us to be wisely calculated for the Benefit of a Trading-City, and has been acquiesced under for so many Years, without the least Complaint of any one Free-Citizen that we ever heard of; that the Taking it away in this Manner cannot but appear to us too rash and precipitate, and may too probably, in our Opinion, be
very

very detrimental to the true Interest of this ancient, populous, loyal, and hitherto flourishing City, the Preservation of whole good Order and Government the Bill itself very justly and judicially allows to be of the greatest Consequence to the whole Kingdom.

| | | |
|------------------------------|-----------------|------------------------|
| <i>Scarsdale,</i> | <i>Compton,</i> | <i>Wharton,</i> |
| <i>Strafford,</i> | <i>Bruce,</i> | <i>Fran. Cestriens</i> |
| <i>Bristol,</i> | <i>Craven,</i> | <i>Arundell,</i> |
| <i>St. John de Blatfos,</i> | <i>Westen,</i> | <i>Abingdon,</i> |
| <i>Boyle,</i> | <i>Montjoy,</i> | <i>Litchfield,</i> |
| <i>Bathurst,</i> | <i>Foley,</i> | <i>Gower,</i> |
| <i>Bingley,</i> | <i>Exeter,</i> | <i>Uxbridge.</i> |
| <i>Berkeley of Stratton,</i> | | |

For the foregoing Reasons and these that follow, viz.
1st, Because we are of Opinion, that the several great Alterations made by this Bill in the ancient Constitution of the Common-Council, and other the Rights, Franchises and Prescriptions of the City of London, will, if passed into a Law, entirely subvert and destroy the ancient Title which the City at this Time lawfully claims, and has, thereto; and will introduce and enact a new Constitution upon the City hereafter to be claimed and enjoyed, not upon the Foundation of their ancient Title, but of this Act of Parliament; which must, as we conceive, in all future Times, whenever the City of London may have Occasion to assert or defend their ancient Title and Franchises, bring them under insuperable Difficulties, and may be followed with dangerous Consequences concerning the very Being and Constitution of the Corporation, many of which it is impossible to foresee or enumerate.

2^{dly}, We are of Opinion, that the new Constitution of the Common-Council enacted by this Bill, whereby a Negative is declared and given to the Mayor and Aldermen, not only in the making of By-Laws for the Government of the City, but in other Acts concerning the Issuing and Disposal of the Treasure of the City, and also of the Seal of the City, whereby their Lands and other Estates are subjected to the said Negative, and in all other Acts and Powers at this Time, as we conceive, belonging to the Common-Council, excepting only the Appointment of some few Officers mentioned in the Bill,

is a dangerous Innovation upon the City, unsupported by any Evidence offered at the Bar, of the ancient Constitution, and though in late Times mentioned to be claimed, yet contrary, as we conceive, to a clear uninterrupted and convincing Proof of the Exercise of the Powers and Authorities of the Common-Council in all Ages, to the 29th of *January* 1723; and we conceive the Alteration made by the Bill in this Respect to be the more unwarrantable, because the written Evidence offered to support the Claim of a Negative by the Mayor and Aldermen was either conceived in general Terms unapplicable to that Claim and not maintained by subsequent Practice, or was drawn from Proceedings in Times of Trouble and Confusion.

3dly, We are of Opinion, that the extraordinary Power, given by this Bill to the Mayor and Aldermen, will vest in them new exorbitant Authorities over all the Citizens, their Rights, Liberties and Franchises of all Kinds, inconsistent with that Balance of Power in the City, by which the same have been preserved, and in the future Exercise thereof must, as we conceive, lay the Foundation of constant and lasting Disputes, Divisions and Distractions in the City of *London*.

4thly, We think this Bill is the more dangerous, because it creates a new Constitution in several Particulars contained in it; not framed upon the ancient Rights proved or pretended to, or disputed on either Side, but is a new Model without due Regard to the antecedent Rights as claimed by either Side, and will deprive a great Number of Citizens of their ancient Rights and Franchises in Elections and otherwise, without leaving them any Opportunity of asserting the same by due Course of Law, and is a Precedent of the most dangerous Consequence to all the Cities and Corporations of this Kingdom.

5thly, We are of Opinion, that the Abolition of the ancient Custom of the City touching the personal Estates of Freemen is a dangerous Innovation tending to let in to the Government of the City Persons unexperienced and unpractised in the laudable and beneficial Trade of the City and Kingdom, and unfit for the Magistracy of the City, and may thereby introduce improper and pernicious

nicious Influences over the Citizens; and we think that the Strength, Riches, Power and Safety of the City of *London* have been hitherto, in a great Measure, supported by this and other Customs of the City, as the Walls thereof; and we fear, that the Decay of Trade, and with that, of the Grandeur of the City of *London*, and the Diminution and Loss of the great Excises and Duties arising from the Trade of the City, on which the Support of his Majesty's Government so much depends, may be the Consequence of the Abolition of this ancient Custom and Privilege of the Freemen of the City of *London*.

6thly, Because we are of Opinion, that the Petition of the many thousand Freemen of the City against this Bill ought to be a far greater Weight against this Bill, than the Petition of fifteen Aldermen for it; and that the Confusion which may arise from this Bill, if passed into a Law, may tend greatly to the future Disturbance of his Majesty's wife and gentle Government.

Wharton, Strafford, Coventry.

Die Luna 19^o Aprilis, 1725.

Hoc 3^a vice lecta est Billa, entitled, An Act for redeeming the Annuities of twenty-five thousand Pounds per Annum charged on the Civil-List Revenues by an Act of the seventh Year of his Majesty's Reign, and for discharging the Debts and Arrears due from his Majesty to his Servants, Tradesmen, and others.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

Because this Bill is to raise a great Sum of Money, which will, as we apprehend, become a Burthen upon the Publick, and increase that immense Load of Debt, which is already above fifty Millions, and therefore, in our Opinions, require the utmost Application to diminish it, and cannot but give us the most melancholy Prospect, whenever, especially in a Time of Peace and Tranquility, we find any Addition is made to it; and since his Majesty's Revenue, when first settled, was thought sufficient by the Parliament to answer all the necessary Expences of his Civil Government, and is larger, as we conceive, than.

than that of his Predecessors; and since that Revenue has once already, and not long ago, received an Aid of the like Sum, we think we were fully justified in expecting an Account of the Reasons of contracting so great a Debt; and because that was refused to be laid before us, we are of Opinion, we cannot discharge our Duty to our Country, if we should thus uninformed, and in the Dark, give our Consent to this Bill, which being the second of this Kind within a short Compass of Time we apprehend may prove of the more pernicious Example.

Strafford, Bruce, Boyle.

Die Lune 26^o Aprilis, 1725.

The Commons having brought up a Replication to the Answer of *Thomas Earl of Macclesfield* to their Articles of Impeachment against him,

A Question was proposed and stated for appointing his Lordship's Trial on *Thursday* sevennight at the Bar of the House,

Contents 59 And, the Question being put, whether
Not Cont. 17 those Words [at the Bar of the House]:
 shall stand Part of the Question?

It was resolved in the Affirmative.

Dissentient

1st, Because we are of Opinion, that it highly concerns the Honour and Dignity of this House, in all Cases of Impeachments, that the Trial should be had in the most publick and solemn Manner, that being most suitable to the Laws and Constitutions of this Kingdom in all Cases whatsoever, but is more especially requisite in a Prosecution of the Commons of *Great-Britain* begun and carried on by their Representatives in Parliament; for which Reasons we think, that this Trial ought to be had in *Westminster-Hall*, and not at the Bar of this House, where it is impossible, as we conceive, to provide Room and other Conveniencies for the Attendance of *the House of Commons*, and such others of the Subjects of this Kingdom who may be desirous to be present at this Trial.

2^{dly}, We are of Opinion, that it is a Justice due to the Earl who is impeached, to give him the Opportunity of vindicating himself and to assert his Innocence in the most publick Manner imaginable, the Crimes wherewith
he

he is charged by this Impeachment being of that Nature as render it, as we conceive, most desirable, and even necessary on his Part, to give universal Satisfaction of his Innocence in a Case wherein his Honour, and that of his Posterity, are so highly concerned.

3^{dly}, We are of Opinion, that it is of great Moment to the Honour and Dignity of the Crown, the Fountain of Justice, that the Trial of this Impeachment should be had in that Place which may be most satisfactory to the whole Nation, because the Articles, whereby the Earl stands impeached, relate to the Administration of the Publick Justice of the Kingdom, and consists of Facts and Matters charged on him whilst he was Lord High Chancellor, and as such was intrusted by his Majesty with the Execution of the most eminent Office and Station concerning the Administration of Justice.

4^{thly}, Because we observe that the Earl impeached has, in his Defence, by his Answer, in some Degree involved the Honour of many great Personages, Peers of this Realm, and others, some living, and others long since deceased, but whose Descendants are now Peers and Members of this House, in the Consideration of the Matters and Crimes charged on himself; which Circumstance of the Defence being, as it seems to us, in the Opinion of the Earl, material to be examined into upon the Trial, we are of Opinion, that in this Respect also, the Place of Trial is become of more Importance and most proper to be in *Westminster-Hall*, and not at the Bar of this House, where the Examinations must unavoidably, as we conceive, be less publick, and in that Respect less satisfactory.

5^{thly}, It appearing to us by several Reports delivered to this House by his Majesty's Direction, which relate to the Administration of the Justice of the High Court of *Chancery*, whilst the said Earl was Lord Chancellor, That there are very great Deficiencies of the Money and Effects belonging to Orphans and Widows, and others the Suitors of the Court; which Money and Effects were brought into the Court, or into the Hands of the Masters in *Chancery*; and which Deficiencies, as they appear to us, amount to a great many thousand Pounds, as yet wholly unsatisfied and unsecured; for this Reason, we

ire of Opinion that it is necessary for the Publick Satisfaction, and particularly of the Suitors concerned, that his Trial should be had, not only in the most solemn Manner, but in the most publick Place also.

6thly, We do not find, that any Impeachment of the Commons has been tried at the Bar of this House, or in any other Place than in *Westminster-Hall*; since the Restoration of King *Charles the Second*, and before that Period, the Impeachment of the Earl of *Strafford* was tried in *Westminster-Hall*; we find also that, since the Restoration, every Peer which has been tried by this House either upon an Impeachment or an Indictment, has had his Trial in *Westminster-Hall*, and not at the Bar of this House; and some Time after the late Revolution, private Persons impeached by the Commons, for Frauds and Cheats relating to the *Luttring* Company, and private Traffick, were appointed by this House to be tried in *Westminster-Hall*; the Impeachment of *Dr. Sacheverell*, for Misdemeanors committed in the Pulpit, was tried there also; for which Reasons, we are of Opinion, that this Impeachment being, as we conceive, of the highest Consequence to the Honour of the Crown and Kingdom, ought to be considered, at least with equal Regard as to the Place of Trial, and in every other Respect with any of those Trials before-mentioned; and the rather, for that the Method of Proceedings on Trials of Impeachments, if had at the Bar of this House, contrary to the general Course since the Restoration, are therefore more unsettled by any late Precedents, and in that Respect may be liable to more Difficulties and Delays than if had in *Westminster-Hall*.

7thly, We think that no Consideration of Delay which may be occasioned for a little Time by the Preparations to be made in *Westminster-Hall*, or any other Account during the Trial, are an equivalent Consideration or to be ballanced with the Publick Satisfaction, which in every Respect is, in our Opinion, due to this Proceeding, and especially with Regard to the Place of Trial.

| | | |
|-------------------|-------------------|------------------|
| <i>Wharton,</i> | <i>Strafford,</i> | <i>Lechmere,</i> |
| <i>Scarsdale,</i> | <i>Gower,</i> | <i>Cowenry.</i> |
| <i>Boyle,</i> | <i>Foley.</i> | |

I dissent for all the aforementioned Reasons, except the Fourth.

Monijoy.

Die Lune 3^o Maii, 1725.

Hedit 3^a vice lecta est Billa, entitled, An Act for more effectually disarming the *Higblanders*, in that Part of *Great-Britain* called *Scotland*, and 'for the better securing the Peace and Quiet of that Part of the Kingdom.

The Question was put, whether this Bill with the Amendments shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the Bill sets forth, that many Persons in the *Higblands* commit many Robberies and Depredations, and oppose the due Execution of Justice against Robbers, Outlaws, and Persons attainted; which Assertion, we conceive, was meant as an Inducement to pass the Bill, and therefore should have been fully made out by Proof, or have been undeniably clear from its Notoriety; but no Proof was attempted to be made of it; and we have not heard that such Outrages, as are charged upon the *Higblanders*, have been committed by them of late.

2^{dly}, We apprehend that this Bill gives to Lords Lieutenants of Counties, Justices of the Peace, and others, such large and discretionary Powers, in some Cases, as are hardly to be trusted in the Hands of any Persons in a free Government, unless apparently necessary to the Preservation of it.

3^{dly}, Since the Behaviour of the *Higblanders* has been peaceable and inoffensive for some Years past, and is so at present, as far as appears to us, we cannot but fear this Bill may prove unreasonable, may hazard the Loss of that invaluable Blessing which we now enjoy, a perfect Calm and Tranquillity, and raise amongst these People that Spirit of Discontent and Uneasiness which now seems intirely laid; for we apprehend that the Execution of some Authorities in this Bill is more likely to create, than to prevent Disorders; we think it applies severe Remedies where, as far as we can perceive, there is no Disease, and this at a Time when the *Higblanders* not being accused of any Enormities, for which, in our Opin-

tion

nion, the Legislature ought in Justice to punish them, or in Prudence to fear them, we think it would become us, as good Patriots, to endeavour rather to keep them quiet, than to make them so.

Wharton, Scarfsdale, Litchfield.
Gower, Boyle,

Die Sabbati 22^o Maii, 1725.

Report being made from the Committee of the whole House, on the Bill for enabling *Henry St. John*, late Viscount *Bolingbroke*, and his Heirs Male, notwithstanding his Attainder, to enjoy several Estates, according to such Interests as are limited in a certain Indenture, and other Assurances therein mentioned, and for other Purposes, That the Committee had made some Progress in the Bill.

The Question was put whether the House
 Contents 46 shall be put into a Committee again up-
 Not Cont. 22 on the said Bill on *Monday* next at ten
 o'Clock in the Forenoon?

It was resolv'd in the Affirmative.

Dissentient

1st, Because we apprehend it to be inconsistent with the Honour and Dignity, which in all Cases should be observed in the Proceedings of this House, to make a Resolution, especially upon Debate, to put the House into a Committee on this Bill, at the same Instant or Moment of Time on which, by an Order of the twenty-first Instant, it was resolved, that the House would further proceed on the Impeachment of the Earl of *Marblesfield*; and it does not appear to us, that any Precedent is to be found on the Journals of this House, to warrant this Resolution in that respect.

2^{dly}, We conceive, that this Resolution may draw on a Debate or Doubt in the House, touching the Preference to be given by the House to the further Progress on this Bill, or to the further Proceeding on the said Impeachment; which Debate, if any such should happen, we think, may be attended with ill Consequences; the Matter of the said Impeachment so pressing and necessary, in our Opinions, to the publick Justice of the Nation, being compared with this Bill, which contains, as we think, extraordinary and undeserved Bounty and Re-ward

ward to a Person impeached by the Commons, and as yet attainted for Treasons which tended to the Overthrow of the Protestant Succession to the Crown of these Realms, and placing the Pretender on the Throne.

Warrington, Coventry, Leicesters.

Die Lune 24^o Maii, 1725.

Hodie 3^a vice lecta est Billa, entitled, an Act for enabling *Henry St. John*, late Viscount *Bolingbroke*, and the Male Heirs of his Body, notwithstanding his Attainder, to take and enjoy several Manors, Lands, and Hereditaments in the Counties of *Wills*, *Surrey*, and *Middlesex*, according to such Estates and Interests as to him or them are limited thereof by the *Quinguepartite Indenture*, and other Assurances therein mentioned, and for limiting the same, in default of Issue-Male of the Body of the said late Viscount *Bolingbroke*, to the other Sons of *Henry* Viscount *St. John* successively in Tail-Male, and for other Purposes therein expressed.

Contents 75 The Question was put, whether this Bill shall pass?
Not Cont. 25

It was resolved in the Affirmative.

Dissentient

1st. Because the Purport and Intention of this Bill is to repeal several Acts of Parliament passed since his Majesty's Accession, whereby all the Estate and Interest of the late Lord *Bolingbroke*, in the Hands mentioned in this Bill, being forfeited to the Crown for High-Treason, were vested in Trustees, and still remain appropriated to the Use and Benefit of the Publick; the Value of which Lands amount, as we believe, to several thousand Pounds *per Annum*; we therefore think it unjust to all the Subjects of this Kingdom, who have borne many heavy Taxes, occasioned, as we believe, in great Measure, by the Treasons committed, and the Rebellion which was encouraged by this Person, to take from the Publick the Benefit of his Forfeiture.

2^{dly}, It appears from the Articles of Impeachment exhibited by the Commons against the late Lord *Bolingbroke*, whereon he now stands attainted by Act of Parliament, that he stood charged with the Commission of several Treasons of the most flagrant and dangerous Na-

ture

ure, committed by him whilst he was *Secretary of State* to her late Majesty Queen *Anne*, for traiterously betraying her most secret Councils to the King of *France*, then at War and in Enmity with her Majesty, and with other Treasons tending to destroy the Ballance of *Europe*, and to raise the then exorbitant Power of the *French* King, who not long before had publicly acknowledged the *Pretender* to be the lawful and rightful King of these Realms.

3^{dly}. The Treasons wherewith he was charged, we conceive, were fully confessed by his Flight from the Justice of Parliament; but his Guilt was afterwards, as we think, indisputably demonstrated by the new Treasons he openly and avowedly committed against his present Majesty; it being notorious, and it having been declared to the House on the Debate of this Bill, that he did, soon after his Flight, enter publicly into the Councils and Services of the *Pretender*, who was then fomenting and carrying on a Rebellion within these Kingdoms for the dethroning his Majesty, into which Rebellion many of his Majesty's Subjects, as well Peers as Commoners, were drawn, as we believe, by the Example or Influence of the late Lord *Bolingbroke*, and for which Reason many Peers and Commoners have since been attainted, and some of them executed, and their Estates both real and personal become forfeited by their Attainders, and as yet continue under those Forfeitures.

4^{thly}. We have not been informed of any particular publick Services which this Person hath performed to his Majesty or this Nation, since his Commission of the many high and dangerous Treasons beforementioned, and in Case he has done any, they must be of such a Nature as ought, in our Opinions, to be rewarded in another Manner than is provided by this Bill, and for which, we think, the Crown is otherwise sufficiently enabled, and the Sincerity of his having quitted the Interest of the *Pretender* may, in our Opinions, be justly suspected, he never having, as appears to us, throughout the Progress of this Bill in both Houses, once signified his Sorrow for the Treasons he had committed; and if he had really abandoned that Interest, his private Intelligences or Services, with Regard to the Interest or Councils of the

Pretender, can't reasonably be supposed, in our Opinions, to be of great Value.

5thly, We think that no Assurances which this Person hath given, nor any Services he can have perform'd since his Commission of the Treasons aforesaid, or any further Obligations he can enter into, can be a sufficient Security to his Majesty or the Kingdom against his future Infincerity, which may happen, he having already so often violated the most solemn Assurances and Obligations, and in Defiance of them having openly attempted the dethroning of his Majesty, and the Destruction of the Liberties of his Country.

6thly, We think the Services he may have perform'd, if any, ought not to be rewarded either in the Degree or the Manner provided by this Bill, it having been found by Experience, in Cases of like Nature, that the strongest Assurances have afterwards proved deceitful; for which Reason we conceive it to be unwise and dangerous to give such Rewards as can't be recalled, tho' the Assurances should be broke; and we believe it to be the known Policy and universal Practice of wise Governments to keep the Persons (claiming Merit from such Services as the late Lord *Bolingbroke* can possibly have performed since the Commissions of his Treasons) dependent on the Government for the Continuance of those Rewards.

7thly, The Pardon of the late Lord *Bolingbroke*, under the great Seal, having been communicated to the House, and under Consideration on the Debate of this Bill, we think that this Bill ought not to pass, because it may hereafter be construed, in some Degree, to confirm or countenance that Pardon; and we are of Opinion, that that Pardon, though it may be legal as to the Treasons committed by him since his Attainder, yet so far as it may be construed (if that should be) to pardon or affect the Act of Attainder of the late Lord *Bolingbroke*, or the Impeachment of the Commons, on which that Act is founded, it is a most dangerous Violation of the ancient Rights and Freedom of the Kingdom, and will defeat the whole Use and Effect of Impeachments by the Commons; which is, as we think, the chief Institution,
arising

arising even from the Constitution itself, for the Preservation of the Government, and for the attaining parliamentary Justice; and tends, as we conceive, to render the Rights and Judicature of this House, on Impeachments and Bills of Attainder, vain and useless; all which ancient Rights of both Houses, and of the Subjects of this Nation, were saved to them by the Revolution, and were intended, as we conceive, to have been for-ever preserved to them in their full Extent, by the Act passed in the Reign of the late King *William*, of ever glorious Memory, by which the Crown of these Realms is limited and settled on his present Majesty and his Issue, and in which Act it stands declared, that no Pardon under the Great Seal shall be pleadable to an Impeachment of the Commons.

8thly, We are of Opinion, that the Power of dispensing Mercy is an ancient inherent Right of the Crown of these Realms, and the Exercise of it, of great Benefit to the People, when 'tis wisely and properly applied; but it being incumbent on us, in the Vote we give for or against passing this Bill, to judge between the late Lord *Bolingbroke*, and to consider the Right and Title he appears to us to have to the Benefits of this Bill, and the Concern which, on the other Side, the Honour, Interest and Safety of the King and his Royal Family, and the whole Kingdom, have, in our Opinion, from the Consequences of it, we think we can't be justified in our own Thoughts, with Regard to the latter, or to our Posterity, if we should consent that this Bill should pass.

Bristol, Onslow, Lechmere.
Coventry, Clinton,

Die Mercurii 26^o Maii, 1725.

The Lords having unanimously found the Earl of *Maclesfield* guilty of the High Crimes and Misdemeanors charged on him by the Impeachment of *the House of Commons*, and come to a Resolution that the said Earl should be fined,

The Question was proposed and put, whether the said Earl shall be for ever incapable of any Office, Place or Employment in the State or Common-

wealth?

P 2

16

It was resolved in the Negative.

Dissentient

1st, Because it is certain that the Honour and Dignity of the Crown, the Security of our religious and civil Rights, and the Preservation of our most excellent Constitution in Church and State, entirely depend upon the Probity, Integrity and Ability of those Persons whom his Majesty shall call to his Councils, and who shall be employed in any Office, Place or Employment in the State or Common-wealth.

2^{dly}, Because, we conceive, a Person impeached by *the House of Commons* of Corruption of the deepest Dye, and who, after a full and legal Trial, was by this House unanimously found Guilty of High-Crimes and Misdemeanors, charged on him by *the House of Commons*, which High-Crimes and Misdemeanors were committed by him in the Execution of its high Station as Lord High Chancellor of Great-Britain, ought not to be exempted from this Part of the Sentence, which has always been thought proper to be inflicted by our Ancestors, both in Regard to the Safety of the Government, and the Justice of this House, on Persons convicted of Crimes of the like Nature; and we do not find one Instance on the Journals of Parliament, where this Penalty has been omitted.

3^{dly}, We apprehend that his Majesty having removed the Earl of *Macclesfield* from the Trust reposed in him by the Custody of the *Great Seal*, and having earnestly recommended to the Lords Commissioners appointed to succeed him, the taking effectual Care, that entire Satisfaction be made to the Suitors of the Court, and that such Suitors be not exposed to any Dangers for the future, and fully expressed his gracious Disposition that the said Lords Commissioners should look narrowly into the Behaviour of all the Officers under their Jurisdiction, and should see that such Officers act with the strictest Regard to Justice, and to the Ease of his Subjects (which is a plain Indication of his Majesty's just Resentment of the Earl's ill Conduct, during his presiding in the Court of *Chancery*) and having, in great Tenderness to the injured Nation, recommended the Protection of the unhappy Sufferers to the Justice of Parliament, we thought it
incum-

incumbent upon us, on this great Occasion, when the Commons have so clearly made out their Charge against the impeached Earl, not to depart from the Methods of our Ancestors in the framing of our Sentence, with an unusual Tendernefs to a Person, against whom the whole Nation cries for Justice, but to pursue their glorious Steps upon the like Occasions, and to incapacitate the said Earl from having any Office, Place or Employment in the State or Common-wealth, as the most effectual Means to deter others from being guilty of the like Crimes for the future.

*Wharton,
Abingdon,
Bruce,*

*Sirafford,
Pomfret,*

*Denbigh,
Compton.*

We do dissent to the beforementioned Question for the Reasons following :

1st, This House having resolved, that *the House of Commons* have made good their Charge of High Crimes and Misdemeanors against the Earl impeached, and by a subsequent Resolution having unanimously declared him Guilty, we are of Opinion, that it is a necessary Consequence in Law, Justice, Honour and Conscience, that the Disabilities contained in the Question proposed should be a Part of his Punishment, they being such as, we think, the wholesome Laws and Statutes, against which the Earl has offended, do expressly ordain for the Punishment of his Crimes, and such as the Nature, Circumstances and Consequences of his Guilt do, in our Opinions, most justly deserve.

2^{dly}, The Articles of *the House of Commons*, whereof the Earl is, in our Opinions, declared guilty, are an Accusation of him for many repeated Acts of Bribery, Extortion, Perjury, and Oppression, committed by Colour of his Office of Lord High Chancellor, and of many Endeavours to have concealed and suppressed the Discovery of them, even from the Knowledge of his Majesty ; those Crimes therefore being by the Laws of this Land, and, as we believe, by the Laws of all civilized Nations in the World, adjudged to be Crimes of an infamous Nature, we think the Incapacity proposed by this Question to be one natural and unavoidable Step to have been made by this House in the Judgment on those Crimes,

3dly, The Earl, in his Answer to the Articles of the Commons, hath asserted, that the Taking the many Sums by him from the Masters in *Chancery* (which Sums he there calls Presents) was never before looked upon to be criminal; and hopes that the giving or receiving such a Present is not criminal in itself, or by the common Law of this Realm, and that there is not any Act of Parliament whatsoever by which the same is made criminal, or subject to any Punishment or Judgment, which can be prayed in this Prosecution: The Earl himself, and his Council on his Behalf, upon his Trial, attempted to justify his Extortions (then called Complements) and endeavoured to maintain, that they are conformable to the Laws of the Land; but we cannot reflect on this Behaviour of the Earl otherwise than as the highest Dishonour thrown by him upon the Laws and Government of this Kingdom, and a most daring and groundless Endeavour to disparage the common Law of the Land, *Magna Charta* itself, the clear and express Injunctions of many Statutes, particularly those passed in the Reigns of *Richard II.* *Henry IV.* and *Edward VI.* in his Behalf, and of an Act passed this Session of Parliament for the Indemnification of the Masters in *Chancery*; against the plain Sense of all which Laws the Earl has, in our Opinions, knowingly and wilfully offended; and as this unparalleled Justification attempted by the Earl will be transmitted to all Posterity, we think it absolutely necessary that the Punishment proposed by this Question should have been inflicted, in Vindication of the Laws and Government itself, against the Aspersions the Earl has thrown upon both, and to prevent any Imputation which may hereafter be cast on the Honour and Justice of this House, as having, on this Occasion, in any Degree seemed to favour or countenance such Defence.

4thly, The Earl has in his Answer asserted some of his Practices to have been long used by his Predecessors, and by others being Chief Justices, Masters of the *Rolls*, and other Judges; and on his Trial offered Evidence to prove his Assertion in four Instances only, three of them in the Time of one, and the other in the Time of his immediate Predecessor; but tho' those Instances, as we think, were unattended with the many Aggravations of the

the Earl's Guilt in those Respects, yet lest those Examples, together with that of the Earl, should hereafter be construed a Mitigation of his, or an Encouragement to the like Offence, we think the Punishment now proposed ought to have been inflicted, by which it would become the more exemplary; and the rather, because it appears to us highly probable, that the Imputation as it is thrown by the Earl upon his Predecessors, is unjust; the Memory of many of those wise and excellent Persons never having been, as we believe, stained with an Imputation, till the Earl cast it on them; and some of his Predecessors having, in several Ages, fallen under the severe and strict Inquisition of Parliament for Bribery and Corruption, without any Charge upon them for that criminal Practice.

5thly, We are of Opinion, that this House, now exercising its Judicature as the supreme Court in this Kingdom, upon an Accusation of the Commons for Offences against the known Laws of the Land, has no legal Power or Authority to dispense with or omit those Punishments which are expressly ordained by positive Acts of Parliament; and it appears to us to be indisputable, that the Disabilities proposed by this Question are expressly ordained by the Statute made 11 Hen. IV. and in some Degree by the Statute 5 & 6 Edw. VI. against buying and selling Offices, for the very same Offences of which this House hath, as we conceive, declared (and of which we are fully satisfied in our Consciences) the Earl is guilty; and the Punishment proposed in this Question hath been inflicted by the House in the Cases of the Lord Bacon and Earl of *Middlesex*, for Corruptions, in our Opinions, much less heinous than the Crimes of the Earl impeached; and the Judgments given by this House on those two Persons were founded, as we think, not only upon the Nature of the Crimes, but were directed and prescribed by the Acts of Parliament above-mentioned, and still remain on the Records of this House unimpeached, and their Authority never judicially questioned, to our Knowledge, but are often referred to and approved by the most learned Authors and Judges of the Laws of this Land; we are therefore of Opinion, that it was not only wise, but even that the Law re-

quires, that the Judgment upon the Earl impeached should be consonant in this respect to the Judgment of this House, in those two Instances; whereby the Law of the Land in this Particular stands declared, as we think, by the Authority of the supreme Judicature of the Kingdom, and which no Power less than the Authority of an Act of Parliament, in our Opinions, can abrogate.

6thly, It having appeared, on the Trial of the impeached Lord, that the most dangerous and destructive Corruptions have been committed by him whilst, in the highest Station, in the Administration of publick Justice, to the great Dishonour of the Crown, and the Detriment of great Numbers of the King's Subjects, and in one Instance, whilst he (with others) was in the Exercise of the Regal Authority; we think it of the highest Consequence to the Honour and Support of his Majesty's Government, and the Satisfaction of the whole Kingdom, that the Earl should, by the Judgment of this House, have been incapacitated from ever having the Power or Opportunity of re-acting the like Corruptions, against which, as we conceive, there could be no Security, but by inflicting upon him the Disabilities proposed in this Question.

Scarfsdale,

Greenwich,

Strafford,

Denbigh,

Buchan,

Hallifax,

Harborough,

Selkirk,

Orkney,

Abburnham,

Wharton,

Carlisle,

Litchfield,

Gower,

Brooke,

Bruce,

Manchester,

Hay,

Masbam,

Northampton,

Abingdon,

Brissol,

Bathurst,

Lechmere,

Suffen.

Then it being moved to resolve, That the said Earl shall never sit in Parliament, nor come within the Verge of the Court,

Contents 39

Not Cont. 45

After further Debate, the Question was put, that the said Earl shall never sit in Parliament, nor come within the Verge of the Court?

It was resolved in the Negative.

Dis.

Dissentient

1st, We cannot agree to this Resolution for the Reasons given in the last Protest; and further, we conceive, that there was the greater Necessity for the Punishment proposed in this, from the Determination of the House on the former Question, from whence (and also from the Question having passed in the Negative) there remains, as we apprehend, no Punishment, but a pecuniary one, to be inflicted on the impeached Earl for his heinous and unexampled Misdemeanors; which Punishment we think (and we fear the whole Nation will judge) to be utterly unadequate to his Transgressions, and not consistent with the Resolutions already passed by this House upon the Earl, whereby he is render'd in Judgment of Law, as we think, an infamous Person, and not capable of bearing Testimony as a Witness, much less to sit in this supreme Court as a Judge, perhaps on Points of the highest Moment to the Kingdom, and over the Lives, Liberties and Properties of the Subjects; many of which he has, in our Opinions, already so notoriously injured.

2^{dly}, Because we find, that the Punishment now proposed has been inflicted in the two Instances of Lord Bacon and the Earl of *Middlesex*; and the like in earlier Instances, particularly in the Case of *Hubert de Burgo*, created Earl of *Kent*, who was afterwards charged in Parliament for counselling the King to cancel *Magna Charta*, and for other Offences, and was degraded from his Dignity by the Judgment of his Peers; and we conceive, that the Condemnation which this House has already passed on this Earl is founded upon the most aggravated Guilt which has ever appeared in any Criminal, whose Offences were not capital; amongst which his repeated Wholesale (as we conceive them to be) of the Justice of the Court of *Chancery*, in the corrupt Dispositions of the Offices of the Masters, were, as far as in him lay, so many Barter and Sales of *Magna Charta* itself, by which the Sale of Justice is prohibited.

3^{dly}, We conceive it to be utterly inconsistent with the Honour and Dignity of this House, to let a Lord condemned, as we think, for the most dangerous Corruptions committed by him whilst he was a Judge, to

continue afterwards in the Enjoyment of his Seat in this House, under no other Censure than of a Fine, and Imprisonment till that is paid; because, we fear, it may hereafter give too much Encouragement to the worst Corruptions in the greatest Officers of the State, if, from the Example of this Earl, it should be hoped their Crimes may be ransomed by a small Part, perhaps, of their corrupt and extorsive Gains; by which means the greatest Offenders of this sort may think their Impunity the more secure, by so much the higher that they carry, and the more they succeed in their corrupt Practices: We think also, that the Sum of thirty thousand Pounds, if that should be the Fine, does very little, if at all, exceed the gross Sums this Earl has received, as we believe, in Bounties from his Majesty, over and above the due Profits of his Offices, and the other great Sums he has extorted and still retains; we are therefore of Opinion, that the Infamy, which, we think, is due to the Crimes of which the Earl is condemned, should have been fixed upon him by the Disability proposed in this Question.

| | | |
|--------------------|---------------------|--------------------|
| <i>Scarfsdale,</i> | <i>Northampton,</i> | <i>Greenwich,</i> |
| <i>Wharton,</i> | <i>Brooke,</i> | <i>Abburnham,</i> |
| <i>Strafford,</i> | <i>Bruce,</i> | <i>Abingdon,</i> |
| <i>Sal Kirk,</i> | <i>Buchan,</i> | <i>Carlisle,</i> |
| <i>Manchester,</i> | <i>Denbigh,</i> | <i>Bristol,</i> |
| <i>Gower,</i> | <i>Hallifax,</i> | <i>Hay,</i> |
| <i>Bathurst,</i> | <i>Lechmere,</i> | <i>Litchfield,</i> |
| <i>Harborough,</i> | <i>Masbam,</i> | <i>Orkney.</i> |

We dissent to the last mentioned Question for the Reasons following:

1st, For the first Reasons given on the foregoing Question, which, we apprehend, hold the stronger against his being permitted to sit in the highest Court of Judicature, since it may oppose the Judgment of that House to Censure, when a Person guilty of such corrupt Practices shall be one of the Judges.

2^{dly}, We apprehend, that a Person whom his Majesty has, in such a Manner, removed from being a Judge of his Subjects Properties, cannot be thought fit to sit in this House, in such Case as may affect the Lives of every

Pepp

Peer of this House, and the Property of all the Subjects of Great-Britain.

Wharton, Abingdon, Compton,
Pamfret, Bruce, Strafford.

Die Jovis 17^o Februarii, 1725.

Report was made from a Committee of the whole House, to whom it was referred to consider of the Treaty of Peace and Commerce between the Emperor and the King of Spain, as also the Treaty of Hanover, That the Committee had come to a Resolution for an Address of Thanks to his Majesty, and other Matters.

And it being proposed to add these Words, viz. [This House not doubting but your Majesty, in your great Wisdom and Justice to these your Kingdoms, will always preserve to them the full and entire Benefit of the Provision made for further securing our Religion, Laws, and Liberties, by an Act passed in the twelfth and thirteenth Years of the Reign of his late Majesty King William III. of glorious Memory; whereby it is enacted, " That in Case the Crown and Imperial Dignity of this Realm shall hereafter come to any Person not being a Native of this Kingdom of England, this Nation be not obliged to engage in any War for the Defence of any Dominions or Territories which do not belong to the Crown of England, without the Consent of Parliament.]

Which being objected to,

After Debate, the Question was, whether those Words shall be made Part of the said Resolution?

Contents 15
Not Cont. 94

It was resolved in the Negative.

Dissentient

1st, The Clause of the Act of Parliament referred to in the Words proposed to be added, being passed into a Law upon the solemn Occasion of settling the Crown of these Realms upon his Majesty and his Royal Issue, and the same Provision, and others, in that Act made, having been since re-enacted by Parliament upon another very solemn Occasion, we are of Opinion, that it is hereby become a fundamental and a very sacred Part of the

Con-

Constitution of the united Kingdom, upon the strict unviolable Observance of which the future Tranquility this Nation, and the Properties of the Subjects of *Great Britain*, may, in our Opinions, greatly depend; therefore we thought the Words proposed fit to be added to a Resolution of this House, wherein the Defence of his Majesty's Dominions and Territories, not belonging to the Crown of these Realms, is, as we conceive some measure engaged for.

2^{dly}, We are of Opinion, that the unfeigned and constantly shewn by this House in Defence of his Majesty's sacred Person, and the Honour and true Interest of his Government, can never fail to exert itself in Vindication of his Majesty's Honour against all Insults and indignities whatsoever; and tho' we are far from thinking but that a Case may arise, wherein the Consent of this House to engage this Nation in a War in Defence of his Majesty's Dominions in *Germany*, may be both just and necessary, yet it being, in our Judgments, reserved to both Houses of Parliament, by the Laws above-mentioned, to deliberate and advise upon all the Circumstances, and thereupon to consent to the Justice of the Cause whereby this Nation shall at any time be engaged in War upon that Account, we are therefore convinced that the Words proposed ought to have been added to the Resolution.

3^{dly}, And the rather, because the Words proposed to be added import the most dutiful and entire Confidence in his Majesty's Wisdom and Justice to these Kingdoms in that respect; and therefore, if they had been added to the Resolution of this House at this critical Juncture, as we conceive, have prevented any Jealousy which might happen to arise in the Minds of the Subjects of this Realm, in a Matter which we think to be of high Importance to them.

| | | |
|-------------------|--------------------|------------------|
| <i>Strafford,</i> | <i>Scarsdale,</i> | <i>Bristol;</i> |
| <i>Lechmere,</i> | <i>Litchfield,</i> | <i>Aberdeen.</i> |
| <i>Compton,</i> | <i>Craven,</i> | |

Die Mercurii 20^o Aprilis, 1726.

The Order of the Day being read for taking Consideration that Part of the printed Votes of the 1

of *Commons* of the 24th of *March*, 1725, purporting to be a Message to that House from his Majesty, under his Royal Sign-Manual,

And the same being read by the Clerk,

It was proposed to adjourn the further Consideration thereof for a Month.

After Debate, the Question was put, whether the further Consideration of the said Order of the Day shall be adjourned to this Day Month?

It was resolved, in the Affirmative.

Dissentient

1st, Because we conceive the Subject-Matter of this Debate to be of so great Consequence to his Majesty's Service, to the Honour of this House, to the Constitution of Parliament, and to the Prosperity of the Kingdom, that it ought not to have been postponed at all, much less for such a Length of Time: It must be for the Service and Support of the Crown to have the Advice of both Houses of Parliament upon all Occasions; and as the Message taken Notice of was only sent to the *House of Commons*, there has hitherto been no Communication with this House thereupon, tho' it contains Matters of the highest Importance; and we conceive, that it tends to undermine the very Foundation of this House, when the Lower House is alone advised with upon any Matter which concerns the Interest of the whole Kingdom.

2^{dly}, As this House has always been esteemed the Hereditary and perpetual Guardians of the Liberties and Properties of the People, they ought not to be excluded from giving their Advice in all Matters of Publick Concern; and the Rights of the People of *England* are, as we apprehend, invaded, whenever they are deprived of the Assistance of this House of Parliament, without whom no Aids can be given to the Crown, nor no Taxes imposed on the People: therefore, as we conceive, this Message being sent to the *House of Commons* only tends to subvert those Rights: We think this Debate should not have been adjourned, lest any Inference should be drawn from this dilatory Proceeding, that this House is not as jealous of their Rights and Privileges at this Time, and

as much determined to support them, as any of their Ancestors have formerly been.

3dly, Since it cannot be doubted, that it is an inherent and fundamental Right in this House to alter and amend all Money-Bills which come from the Commons, we cannot but apprehend also, that Demands of Supply should come from the Throne in this House of Parliament, according to antient Usage; and, we conceive, all other Methods of demanding Supplies are new, and must be dangerous to the Constitution.

4thly, Because there is an Expression in the Message which we apprehend to be entirely unprecedented, and never before used in any Message to *the House of Commons*, the Appellation of Parliament being given to them separately from this House; and therefore, lest any Mistake of this Kind should be attended with such ill Consequences as to encourage evil Ministers hereafter to total Neglect of this House, we conceive, the proper Notice should have been taken of it immediately, without deferring the further Consideration thereof for a Month.

Scarsdale,

Aberdeen,

Strafford,

Coventry,

Gower,

Abburnham,

Boyle,

Compton,

Exeter,

Crowen,

Bruce,

Litchfield,

Montjoy,

Lechmere,

Warrington,

Bathurst,

Uxbridge,

Foley.

Die Martis 24^o Januarii, 1726.

Report was made from a Committee of the whole House to whom it was referred to consider of his Majesty's Speech at the Beginning of the Session, and some Papers containing Transactions between the Courts of *Great-Britain* and *Spain*, since the appearing of the *British* Fleet on the Coast of *Spain* or the *West-Indies*, together with a Copy of the Accession of the States-General to the Treaty of *Hanover*, That they had come to the following Resolution, *viz.*

That it fully appears to this Committee, upon Consideration of his Majesty's Speech, and the Letters and Memorials laid before the House by his Majesty's Order, That the Measures his Majesty has thought fit to take

take were honourable, just, and necessary for preventing the Execution of the dangerous Engagements enter'd into in Favour of the *Pretender*, for preserving the Dominions belonging to the Crown of *Great Britain* by solemn Treaties, and particularly those of *Gibraltar* and the Island of *Minorca*, and for maintaining to his People their most valuable Rights and Privileges of Commerce, and the Peace and Tranquillity of Europe.

Which being read twice by the Clerk,

Contents 98 The Question was put, whether to agree
Not Cont. 25. with the Committee in this Resolution?
It was resolv'd in the Affirmative.

Dissentient

1st, The Resolution of the Committee being not only a Justification of the Measures therein mention'd, but tending to approve the Counsels which have been given to the Crown relating thereto, we can by no means agree, that it fully appears they were honourable, just, and necessary, before they have been maturely and distinctly considered; the only Question as yet debated in the Committee (except the Resolution) being upon an Address of Advice to his Majesty for obtaining a further Security from and Confidence with his Allies, in Case of a Rupture; which Address appeared to us more reasonable and necessary, in the present Conjunction, than any Vote of Approbation; we therefore cannot concur in approving Measures and Counsels not yet examined into, the further Consideration whereof may be also precluded by this Resolution.

2^{dly}, The Papers hitherto laid before the House, in order to the Consideration of his Majesty's Speech, are such only as concern'd the Accession of the States General to the Treaty of *Hanover*, and the Letters and Memorials since the Arrival of the *British* Fleet on the Coast of *Spain* in *America*; but none of the Negotiations or Measures (which we suppose to have been many) that have been carried on between the Courts of *Britain* and *Vienna*, and the Northern Powers, which his Majesty's Speech and the Resolution also may have relation to, have as yet been communicated to this House: But all those Measures, and many others unknown (as we believe

believe to this House) are, in our Opinions, intended to be approved and justified by this Resolution; to which therefore we cannot concur, no more than if it had declared the Measures honourable, just, and necessary, which shall hereafter be taken for the Purposes therein mentioned.

3dly, Altho' we rely, in the most dutiful manner, on the Declaration made from the Throne concerning a secret dangerous Engagement for placing the *Pretender* on the Throne of these Kingdoms; yet finding, by the Papers laid before the House, that any such Engagement or Measure, for putting the same in Execution, is absolutely denied on the Part of the Crown of *Spain* (one of the supposed Parties to the said Engagement) we cannot agree to the Resolution, because Time may convince, that the Informations his Majesty has received concerning that Engagement were not justly grounded; and the Measures taken to prevent the Executions of them (whatever they were) not having been as yet particularly considered. we cannot declare them honourable, just, and necessary.

4thly, We find it charged in one of the Papers laid before the House, that very considerable Sums of Money have been sent and employed in *France, Holland, Prussia, Sweden*, and other Places, to promote and accomplish the Designs of the *British* Court: which Insinuation, as vile as we think it is, the Committee have not yet taken the same into their Consideration, tho' a thorough Examination into the Grounds of that Insinuation is, in our Opinions, absolutely necessary for the Honour of his Majesty's Government, and the Satisfaction of this House; we cannot therefore agree to the Resolution, which, as we conceive, may be construed to stop all future Inquiries into this Matter.

5thly, Whatever Measures may have been taken to preserve *Gibraltar* and the Isle of *Minorca*, yet we cannot agree to declare them honourable, just, and necessary, before they have been fully considered in the Committee; and the rather, because we find it asserted, on the Part of *Spain*, in one or more of the Memorials before the House, That a positive Promise has been made, on the Behalf of *Britain*, for the Restitution of *Gibraltar*.

salutar to Spain; on the Performance of which Promise *Spain*, as it appears to us, still insists: We cannot therefore agree to the Resolution, before the Truth and all the Circumstances of that pretended Promise are thoroughly examined into; which Promise, if it should appear to have been made, as is asserted, we are of Opinion, that it was highly criminal in those who advised it.

6thly, The Measures taken for maintaining the *British* Commerce and the Tranquillity of *Europe* have not, as we think, been under the distinct Consideration of the Committee, since the Memorials and Letters were laid before the House; and the Oppositions made, if any, on behalf of *Britain* at the Court of *Vienna*, to the *Ostend* Company, are unknown to us, as well as the Circumstances relating to the late *Baltick* Expedition; and yet all these Matters were the proper Consideration of the Committee; for which, and the other Reasons abovementioned, we being apprehensive, that the Resolution proposed may not give solid Ground of Satisfaction to the People of *Britain*, or to any foreign Powers in Alliance with us, or conduce to the Honour of his Majesty's Government, or the Support of the Dignity of his House, can't agree thereto.

| | | |
|-----------------------------|------------------|------------------|
| <i>Scarsdale,</i> | <i>Bristol,</i> | <i>Coventry,</i> |
| <i>Bruce,</i> | <i>Montjoy,</i> | <i>Aberdeen,</i> |
| <i>Strafford,</i> | <i>Lechmere,</i> | <i>Boyle,</i> |
| <i>St. John de Bletsee,</i> | <i>Gower,</i> | <i>Bathurst,</i> |
| <i>Weston,</i> | <i>Compton,</i> | <i>Foley,</i> |
| <i>Oxford and Mortimer.</i> | | |

Then it was moved to resolve, That an humble Address be presented to his Majesty, representing the deep Concern of this House on the Prospect of the imminent Dangers which threaten these Kingdoms, and all *Europe*, at this Juncture, from the formidable Confederacies which his Majesty assured his Parliament were enter'd into between the Courts of *Spain*, *Kienna*, *Russia*, and other Powers, whereby the general Tranquillity may soon be broke, and *Europe* engaged in a new War; and it appearing to this House from the Act of Accession of the *States-General*, and the separate Articles thereto belonging, that their Accession is made upon several

veral Conditions and Reserves on their Part, and particularly that in the separate Article concerning the Commerce of the *Austrian* Low Countries to the *Indies* is provided, That if on Account of their Use of the Right of Commerce, or in Hatred of that Alliance, Disturbance should happen, and his Imperial Majesty should suspend or retain the Payment of the Subsidy due to the Publick for the Maintenance of their Troops in the Places of the Barrier, or the Payment of the Interest and Principal placed by Mortgage on divers Estates assigned by his Imperial Majesty for the Security of the Payment, or make use of any other kind of Repress or Ways of Force, that it is the Intention of the contracting Powers to protect and maintain the *States-General* in their Right of Commerce to the *Indies*, guaranty them from all the Consequences which may result therefrom, without having Power to prosecute force against the Company of *Ostend*, before the contracting Powers shall have agreed thereon; and by the same separate Article it being stipulated and reserved to the *States-General*, that they shall continue to have the same Liberty with respect to every thing that shall be proposed to them by the contracting Powers upon the Points, whose Object shall be the maintaining the Balance of Power in *Europe*, as they had before their secession, to take part in the Measures which they should not consent to.

And it appearing to this House, that his *Prussian* Majesty did not concur in the said Accession of the *States-General*; in consequence of all which, the Strength and Security which the Treaty of *Hanover* might otherwise import in the present unhappy Circumstances is weakened; and in case of a general Rupture, the Danger, as well as the Burthen of the War, must fall upon *Great-Britain*; and the Preservation of the Balance of Power in *Europe* depends on the Continuance of Friendship and Assistance of *France* alone, unless some effectual Measures are taken for that great End.

Therefore, that this House, out of Duty to his sacred Majesty, and from their unfeigned Zeal for the Safety of his Government and the Liberties of *Europe*, doth most earnestly beseech his Majesty to make

ressing Instances with his *Prussian* Majesty and the *General* to concur with his Majesty and his others in such Manner as the present critical and dangerous Juncture requires, and as in the Event of a War, if a War is unavoidable, his Majesty may, by the blessing of God, secure a just Ballance of Power in *Europe* as well as the Religion, Liberties, Properties, and Interests of his Subjects.

which being objected to,

the Question was put, whether such an Address shall be made to his Majesty?

It was resolved in the Negative.

Attendant

The Address proposed representing, as we think, the present State of the late Defensive Alliance made at *Utrecht*, which, so far as it appears to us, is the main sort on which *Britain* can depend, besides its own strength, in case of a general Rupture in *Europe*, we thought it highly necessary that it should have passed a Resolution, whereby his Majesty's Hands might have been strengthen'd in his further Concerts with his Allies, and such further Measures effected as are necessary to preserve his Alliances during the War, against dangerous Combinations level'd against *Great-Britain*, and by which such a Repartition of Conquests, in case of Success, might be previously settled, as in the Event would prevent the Loss of a just Ballance of Power in *Europe*; and we are the more convinced of the necessity of the Advice proposed in the Address, because we find, in one of the Letters laid before the House, that a Proposition has been made by the Court of *Spain* to the King of *France*, though not agreed to, to declare himself against *Great-Britain*, on a Pretence which we hope is groundless) that the Defensive Alliance between *Great-Britain* and *France* doth no longer exist.

| | | |
|-----------------------------|-------------------|------------------|
| <i>Scarfsdale,</i> | <i>Coventry,</i> | <i>Boyle,</i> |
| <i>St. John de Blaesoe,</i> | <i>Strafford,</i> | <i>Compton,</i> |
| <i>Gower,</i> | <i>Bathurst,</i> | <i>Bruce,</i> |
| <i>Bristol,</i> | <i>Montjoy,</i> | <i>Aberdeen,</i> |
| <i>Weston,</i> | <i>Lechmere,</i> | <i>Foley.</i> |
| <i>Oxford and Mortimer,</i> | <i>Masbam,</i> | |

After

After which, it was moved to Order, that this House will on this Day Seven-night take into further Consideration his Majesty's most Gracious Speech.

The same being objected to, and Debate had thereon,

The Question was put upon the said Motion ?

It was resolved in the Negative.

Dissentient

1st, Because the Committee having sat one Day only on the Consideration of his Majesty's Speech, could possibly deliberate but upon few of the many weighty Points which arise thereon; on all which the Advice and Support of this House, in our Opinions is absolutely necessary; and since even the Facts relating to many of these weighty Matters have not, as we conceive, been yet laid before the House, we think, the further Consideration of the Speech should not have been refused, there not being, as we believe, any Precedent for such a Refusal, under the like Circumstances, on the Journals of this House.

2^{dly}, His Majesty's Speech containing the Causes of Calling his Parliament, and the Advice of the House to the Crown being required thereon, the Refusal of the Day proposed seems to us, tending to disable this House from discharging their Duty to the Crown, as well as to the Kingdom, in this critical and dangerous Juncture; and as the further Consideration proposed is thereby at present refused, the Precedent (as we fear) lays a Foundation for depriving this House in future Times of any Opportunity at all for such Considerations, by which Means this House must (in our Opinions) be render'd useless in those great Affairs, whereon the Safety and Support of the Liberties of the Kingdom may depend,

Bruce,

Lachmere, Montjoy,

Aberdeen,

Weston, Boyle,

Strafford,

Masbam, Foley,

Bristol,

Coventry, St. John de Bleisbe,

Scarsdale,

Bathurst, Compton.

Oxford and Mortimer, Gower,

Die Mercurii 19^o Aprilis, 1727.

Hodie 3^a vice lecta est Billa, entitled, An Act for continuing the Duties upon Malt, Mum, Cyder and Perry

Perry in that Part of *Great-Britain* called *England*; and for granting to his Majesty certain Duties upon Malt, Mum, Cyder and Perry in that Part of *Great-Britain* called *Scotland*, for the Service of the Year 1727; and for appropriating the Supplies granted Duplicates of *Exchequer* Bills, Lottery Tickets and Orders lost, burnt or otherwise destroyed; and for giving further Time to Clerks and Apprentices to pay Duties omitted to be paid for their Indentures and Contracts.

Contents 73 After Debate, the Question was put, Not Cont. 17 whether this Bill shall pass?

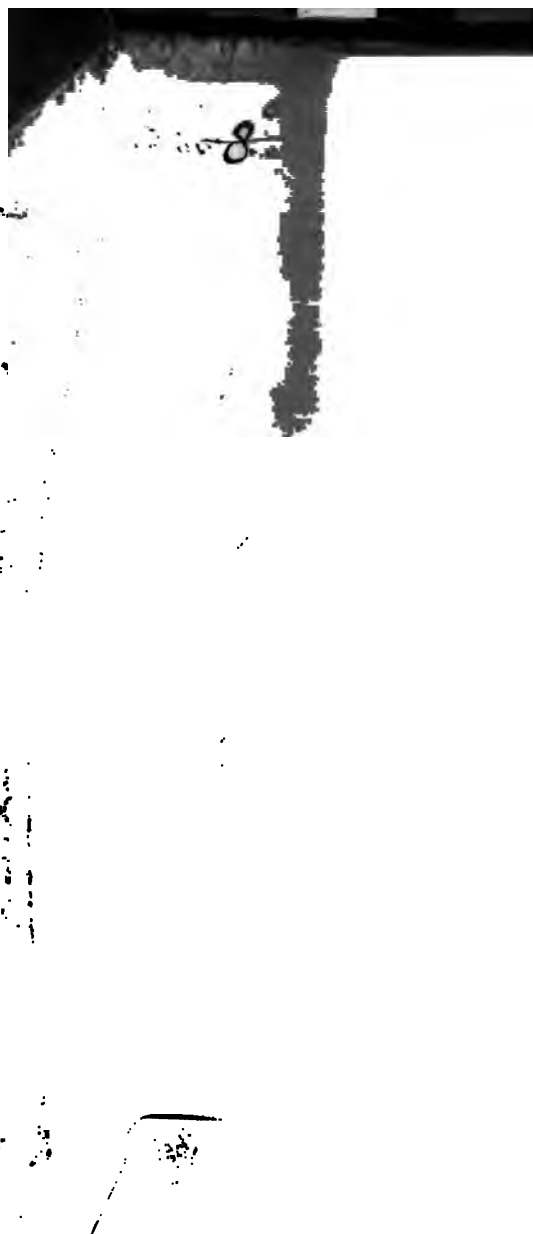
It was resolved in the Affirmative.

Dissentient

1st, Because in this Bill it is enacted, that out of the Aids or Supplies granted this Session of Parliament, there shall and may be from Time to Time issued and applied such Sum or Sums of Money as shall be necessary for and towards answering and defraying such Expences and Engagements as have at any Time been, or shall before or until the 25th Day of *December*, 1727, be made by his Majesty, in concerting such Measures, as he in his great Wisdom thinks will best conduce to the Security of the Trade and Navigation of this Kingdom, and to the preserving and restoring the Peace of *Europe*; which Clause, we think, is inconsistent with that Part of the Bill, which forbids the Supplies to be issued to any other Purpose than those specified, and renders ineffectual that Appropriation of the Publick-Money, which the Wisdom of many Parliaments has thought, and, we are convinced, ought to be thought a necessary Security against the Misapplication of it.

2^d, Because there is no Provision in the Bill to oblige any Person to give an Account of any Money that shall be disposed of by Virtue of the Power in this Clause.

3^d, Because there are sufficient Sums granted to answer every particular Purpose that Money can be wanted for, as far as our present Views can reach; and if any unforeseen Emergency should demand a further Supply, we should think that might be provided for, as has been formerly practised, when Necessity required; and we are persuaded this might be done with less Inconvenience, than by this Delegation of almost a dictatorial Authority,



city, at least, till the Parliament could be called together, who have given so many Instances of their Zeal for his Majesty, that he could have no Room to doubt of their Readiness to make good whatever he should have expended for the Advantage of his People.

4thly, Because we think, that absolute Powers ought to be given in a free Government only upon Occasions of evident Necessity, and when the very Being of the Government is in danger; and though we allow our present Circumstances to be as melancholly as they have almost at any Time been, yet we think it a very improper Remedy for our present State to depart from the approved, and in our Judgment, essential Forms of giving the Publick-Money; nor can we be persuaded, that it is the only, or even the best Expedient that can be found to extricate us out of our unhappy Situation, to repose such a Confidence in the Crown, in the Disposition of immense Sums of Money, as may by the Advice of wicked and incapable Ministers (if it should be our Misfortune ever to have such) be attended with great Prejudice to our Properties, and great Danger to our Liberties, with the Hopes of the Preservation of which we cannot flatter ourselves, but by a strict Adherence to those excellent parliamentary Methods, of granting all Sums of Money only upon Estimates, and for Services publicly avowed.

5thly, Because the Precedents that were offered to justify this Cause were far from giving us any Satisfaction, for if they had been plain and full to the Point (which we think they were not) yet, in our Opinions, ought not to be followed, lest Clauses of the same Nature might become too frequent, and lest an unlimited Power in the Crown to raise Millions on our Fellow-Subjects might be looked upon by Degrees as a Thing of Course, and so at last the total Power to levy and dispose of the Peoples Money be given to one Part of the Legislature, which by our wise Constitution is, and with Safety can only be lodged in the Whole.

Strafford,
Warrington,
Scarsdale,
Country,

Litchfield,
Boyle,
Bingley,
Leckmere,

Maynard,
Bathurst,
Aberdeen,
Crawen,

Oxford and Mortimer, Aylesford, Brooks.
Gower, Foley,

Die Martis 18^o Martii, 1728.

The Order of the Day being read for taking into further Consideration the State of the Nation,

It was moved to resolve, That it is the Opinion of this House, that for the Honour of his Majesty, and the Preservation and Security of the Trade and Commerce of his Kingdom, effectual Care should be taken in the present Treaty, that the King of Spain do renounce all Claim and Pretension to Gibraltar and the Island of Minorca, in plain and strong Terms.

Contents 31 After Debate, the Question was put Not Cont. 84 thereupon? And,

It was resolved in the Negative.

Dissentient

1st, Because, we think our Right to a Place of such Importance to our Commerce should be secured by more than general Stipulations, which may be liable to different Constructions, and will probably be interpreted by the Spaniards in their own Favour, however we may interpret them in ours.

2^{dly}, Because the King of Spain, having claimed by his Ministers several Times, not only from the late King's positive Promise, as he asserts it to be, but from our Forfeiture of it too, by our Infractions of those Conditions on which he gave it up to us; and having actually besieged it since he yielded it to us by Treaty, it seems reasonable to us, that we should insist upon his making his Renunciation of it in Words as plain and strong as he has made his Claim to it, especially since, as far as we have heard, our Plenipotentiaries have not been able to prevail upon him to shew any Inclination to relinquish his Pretensions to it during the long Course of these perplexed Negotiations, in which we have been unskilfully, as we fear, and we are sure we have been unfortunately involved.

3^{dly}, We think it is incumbent upon us to take particular Care, that our Right to it should not in the least be precarious, because, we apprehend, we have great Reason to fear that the King of Spain's Allies are very
delicious

desirous to have it again in his Hands, and no Reason at all to believe that our own Allies are sollicitous to have it continue in ours: If there should be the least Room, upon a Peace, for the King of *Spain's* Pretensions to it, from any loose or doubtful Expressions, we are apprehensive, it may lay a Foundation for Uneasiness and Annularity, and might interrupt a perfect Harmony between us and a Nation whose Friendship must always be of the greatest Advantage to us; we think our Zeal to preserve our Title to it, in that most effectual Manner we proposed, would have terrified any wicked Ministers even from the Thoughts of giving it up, if ever we should be in such wretched Circumstances as to have any who might think a War more dangerous to themselves than the Nation, and who might for that Reason be tempted to purchase an inglorious Peace at the high Price of so valuable a Part of the *British* Dominions.

| | | |
|--|--------------------|--------------------|
| <i>Essex,</i> | <i>Berkshire,</i> | <i>Conventry,</i> |
| <i>Stafford,</i> | <i>Scarfsdale,</i> | <i>Litchfield,</i> |
| <i>Gloucester,</i> | <i>Boyle,</i> | <i>Craven,</i> |
| <i>Buckingham,</i> | <i>Montjoy,</i> | <i>Abingdon,</i> |
| <i>Gloucester,</i> | <i>Wotton,</i> | <i>Foley,</i> |
| <i>Charles & Martin, Willoughby & Broke,</i> | | |

Die Veneris 18^o Aprilis, 1729.

The House (according to Order) proceeded to take into further Consideration the State of the Nation.

And the Resolves of the Papers (read in Part Yesterday) which were laid before this House, as well in Relation to the Squadron of Ships sent to the *East-Indies*, as to the Depredations made by the *Spaniards* on his Majesty's Subjects in *America*, being read,

It was proposed to resolve, That it appears to this House, that the Expence of the Squadron sent to the *West Indies*, under the Command of Vice-Amiral *Hofier*, having been borne by this Nation alone, though designed to prevent the *Spaniards* from seizing the Effects belonging to his Majesty's Allies, as well as his Subjects, which were on Board the *Flota* or *Galleons*, and from applying the Treasure to disturb the Peace, and invade the Liberties of *Europe*, has been an unreasonable Burthen upon this Kingdom.

After

ntents 27 After Debate, the Question was put
nt Cont. 87 thereupon? And,

It was resolved in the Negative.

ſentient

1^{ſt}, Becauſe, we conceive, that our Allies were, at
ſt, as much concerned as ourſelves, to prevent the
aniards from diſturbſing the Peace and invading the
berities of *Europe*, if there was at that Time ſufficient
undation to apprehend ſuch Attempts on the Part of
ain, and becauſe our Allies, the *French* in particular,
d a much greater Share in the Effects of the *Galleons*
an the Subjects of this Nation, and by Conſequence
re much more concerned in Intereſt to prevent the
ing of *Spain* from ſeizing thoſe Effects,

2^{dly}, Becauſe we not only took the whole Charge of
is Expedition upon ourſelves, but have increaſed our
tional Forces, taken great Numbers of Foreign Troops
to our Pay, and contracted to pay divers Subſidies to
oreign Princes, when it has not appeared to us in any
ithentick Manner, as we apprehend, that our Allies
ive taken upon themſelves any Expence proportionable
this, in Conſequence of the *Hanover* Treaty.

3^{dly}, Becauſe we are convinced, that the national
xpence and Loſſes occaſioned by this Expedition do not
ly very far exceed any Intereſt which the Subjects of
is Nation can be ſuppoſed to have in the *Galleons*, but
we likewise been much more conſiderable than any
etriment which has accrued to *Spain* by delaying the
eturn of the *Galleons*.

4^{thly}, That by taking this Expedition ſolely upon our-
lves, we drew the whole Reſentment of the Court of
pain upon this Nation, and gave the *French* an Oppor-
unity of healing the Breaches which had been made be-
ween thoſe two Courts, of acquiring a greater Share
an ever they had in a moſt beneficial Branch of Trade,
nd of acting rather the Part of Mediators than that of
arties in the Diſpute.

5^{thly}, We cannot help being of Opinion, that this
burthen was the more unreaſonable, ſince it does not
ppear that this Expedition has had the Effect of oblig-
ing the *Spaniards* clearly to adjust the Points in Diſpute
etween us, or effectually to ſecure to our Merchants a

Q

just

Arrears provided for by this Clause, and the De described in the Act, to be one and the same since if they could be so understood, the Provision Clause would have been made agreeable to the of the Act, which relate to a Deficiency only; would be highly unjust to his Majesty to direct ti of one hundred and fifteen Thousand Pounds to funded to the Publick at any Time or under ar ditions; for if there had been a real Deficien Grant to his Majesty should be absolute, and the one Hundred and fifteen Thousand Pounds would belong to him; so that this Clause either takes f Majesty what we have no Right to take, or it gi what, as we conceive, he has no Right to claim cannot then consider this Sum to be given eithe real Deficiency, founded on the Civil-List Act, it can be warranted by the said Act, as a suppo rear, we conceive it to be a new Grant to his M and a new Burthen on the People, which does pear to us to have been demanded by the Crow consequently not to have passed according to the hitherto practised and requisite in all such Cases.

2dly, This Clause appears to us unreasonable ny Accounts; as there was no real Deficiency s *Summer* 1728, to which Time the Account is st neither is there any Arrear at the Time when th Supply is granted, but the whole Sum of eight H Thousand Pounds, and considerably more, was c to his Majesty's Coffers, and he was consequently session of the very Money, the supposed Arrear o is made good to him by this Clause: Thus it s us, that the Nation is loaded not to complete, augment the Sum, designed for his Majesty's Cin and this at a Time when the publick Debts are: ed, when the Taxes are heavily felt in all Parts Country, when our Foreign Trade is incumber'd minished, when our Manufactures decay, wh Poor daily multiply, and when many other natio lamities surround us: These Considerations are ir selves very moving, and we apprehend that the appear stronger, when it shall be further considere ~~the~~ Majesty would be so far from wanting any o.

extraordinary Supplies, that even without the Provision in the Civil-List Act, for making good Deficiencies, he would be possessed of a far greater Revenue than King *William*, Queen *Anne*, or even his late Majesty enjoyed; and yet his present Majesty, then Prince of *Wales*, received out of the Civil-List Revenues, during the Reign of the late King, one hundred Thousand Pounds *per Annum*, besides the entire Revenues of the Principality of *Wales* and Dutchy of *Cornwall*; whereas it does not appear to us, that a like Sum of one hundred Thousand Pounds *per Annum*, or even the Revenues of the Principality of *Wales*, have been yet settled on his present Royal Highness.

3dly, We cannot but be extremely apprehensive of the many ill Consequences which may follow from a Grant of Money to the Crown, so ill grounded and so unreasonable as we conceive this to be: The Advantage in Favour of his Majesty, established by the Civil-List Act, is very great, since, if the Produce of the Revenues granted and appropriated to the Use of the Civil-List does not answer the yearly Sum of eight hundred Thousand Pounds, the Deficiency is to be made good to his Majesty by the Publick; whereas no Provision is made by which, if the Produce of those Revenues exceeds the Sum of eight hundred Thousand Pounds, the Surplus shall accrue to the Benefit of the Publick; by this Precedent, not only real Deficiencies are to be made good; but Supplies are to be given for Arrears standing out at the End of every Year which shall come in before Supplies can be granted, though the Supply given to make good Arrears in one Year will certainly increase the Surplussages in another: When we consider the Method which has obtained of anticipating the Revenues, before they come to the *Exchequer*, contrary to the ancient and legal Practice, when we reflect in what Manner these Accounts have been made up, and in what Manner they have been brought in, we cannot but apprehend that the Door is opened by this Precedent to laying new and excessive Charges on the Nation: The Revenues appropriated to the Uses of his Majesty's Civil List are subject in their own Nature to vary, as given when there is no Deficiency in the Produce, the

may be Arrears in the Receipt; these Arrears may easily be increased by the Management of designing Ministers, by private Directions to Receivers, and by artful Methods of stating Accounts; from all which we cannot but apprehend, that now this Precedent is made, we may have frequent Accounts of Arrears, and a grievous and even intolerable Load may be brought on the Nation in a short Time; and we are persuaded that his Majesty can have no Satisfaction in finding his Court abound in Wealth, whilst he may undergo the Mortification of seeing his People reduced to Poverty; neither can we conceive that the latter Part of the Clause is in any Degree an adequate Provision against the Evil we complain of, or the Apprehensions we entertain; for an Account to be made up at his Majesty's Demise will not prevent the Consequences of this Precedent during his Life; and as we hope that his Reign will be long, so we may be allowed to fear that even during the Continuance of it, this extraordinary Method of increasing his Majesty's private Revenue (already very ample) may prove a Source of general Discontent, which is but too apt to produce general Disaffection.

| | | |
|-----------------------------|---------------------|--------------------|
| <i>Plimouth,</i> | <i>Northampton,</i> | <i>Litchfield,</i> |
| <i>Willoughby de Broke,</i> | <i>Stratford,</i> | <i>Blaugart,</i> |
| <i>Gower,</i> | <i>Warrington,</i> | <i>Scarisdale,</i> |
| <i>Boyle,</i> | <i>Coventry,</i> | <i>Montjoy.</i> |
| <i>Oxford and Mortimer,</i> | <i>Bathurst,</i> | |

Die Lunæ 12^o Maii, 1729.

Hodie 3^a vice lecta est Billa, entitled, An Act to ascertain the Custom payable for Corn and Grain imported; for better ascertaining the Price and Quantity of Corn and Grain, for which a Bounty is payable upon Exportation; for appropriating the Supplies granted in this Session of Parliament; and for giving further Time to Clerks and Apprentices to pay Duties omitted to be paid for their Indentures and Contracts.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative,
Dissentient.

17. Dec

1st, Because, we conceive, there will accrue less Detriment to the Publick, by rejecting this Bill, than agreeing to it with that Part of the Appropriation Clause, which enacts the Sum of one hundred and fifteen thousand Pounds to be given to his Majesty for and upon Account of Arrears in his Civil-List; since it would have been easy, had this Bill been rejected, to have provided for the general Appropriation of the several Aids granted in this Session of Parliament in some other Manner.

2^{dly}, Because the Revenue for defraying the Expences of his Majesty's Civil Government being considerably more ample than that of any of his Predecessors, we flatter'd ourselves that the Publick would not have been called upon again in so short a time to make an Addition to that liberal Provision for the Crown, though there had been some small Deficiency in some of the Duties appropriated to the Service of it; but this, in our Opinion, is so far from being the Case, that we are firmly persuaded, if we had agreed to this Bill, with that Part of the Clause, we should have consented to a Grant of a new Aid, and not to make good the Deficiency of an old one, since it seems evident to us, that the Produce of the Civil-List Funds, in the first Year of his Majesty's Reign, rather exceeded than fell short of eight hundred thousand Pounds, even from those Accounts delivered into the House which, we believe, will be universally allowed to be free from any Suspicion in favour of the People.

3^{dly}, Because we look upon this to be not only a Grant of a new Aid, but a Grant made in such an irregular Manner, without being demanded by the Crown that it cannot but give us some Reason to think, that however it may be wanted by the Ministers, it may possibly not be desired by his Majesty.

4^{thly}, Because the literal Interpretation of Part of the Act for settling the Civil-List Revenues on his Majesty, which was contended for, in order to justify that Part of this Clause to which we object, seems to us liable to Consequences very dangerous to the Properties of all the Subjects, by putting it into the Power of those who have the Management of the Publick Money, to give the Crown a Title to the Arrears of the Civil-List.

377
Funds (though perhaps left on purpose in the Hands of the Receivers) and to a parliamentary Supply for very Arrears too.

5thly, Because the Argument which was used in passing the Clause, from the Smallness of the Sum, seems to us a much stronger Reason why it should be asked, than why it should be granted.

6thly, Because, we observe, that whenever a Sum for the Civil-List has been asked in Parliament, it has caused great Uneasiness in the Nation, though derived from the Crown itself, and upon Pretences, in our Opinion, more justifiable, and at Times less useful than this, when, notwithstanding our most pressing Methods of Negotiation, the Fate of *Europe*, as we are enabled to judge, is still in suspense, as labouring under Difficulties that unavoidably attend a doubtful and undetermined Situation of our Affairs; when the Complaints of the People are general and loud, and, as we fear, too well founded on Account of their Poverty, and other Calamities which they have been long afflicted; and when, for Reason, it appears to us to be not only a proper money, but true Policy too, to avoid giving the least Ground to apprehend that the Parliament, by unnecessary Burthens upon them, may itself become one of their Grievances.

7thly, Because this Attempt; when we consider all its Circumstances, as far as appears to us, is without Example, and we dread lest it should be made one day laid hold of as a Precedent hereafter, if ever the Nation should have the Misfortune to see a lavish, weak and impetuous Ministry, armed with great Power, desire to raise such extraordinary Supplies, more in reality to support their own inconsiderate and pernicious Scheme than the Honour and Dignity of the Crown.

| | | |
|--------------------|----------------------|------------|
| Scarsdale, | Strafford, | Warring |
| Plimouth, | Montjoy, | Litchfield |
| Brauford, | Boyle, | Gower, |
| Coventry, | Northampton, | Bathurst, |
| Osford & Mortimer, | Willoughby de Broke, | |

Die Martis 17^o Januarii, 1729.

The House (according to Order) proceeded to take into Consideration the Treaty of Peace, Friendship and mutual Defence, between his Majesty and the most *Christian* King, and the King of *Spain*, concluded at *Seville* the Ninth of *November*, N. S. 1729, with the separate Articles thereunto belonging.

And the same being read by the Clerk, it was moved to resolve, That the said Treaty does contain all necessary Stipulations for maintaining and securing the Honour, Dignity, Rights and Possessions of this Crown, and that all due Care is taken therein for the Support of the Trade of this Kingdom, and for repairing the Losses suffered by the Merchants.

Contents 72 After Debate, the Question was put there-
Not Cont. 30 upon? And,
It was resolved in the Affirmative.

Dissentient

- Because, we think, this Question from the Debate, as well as from the Import of the Question itself, was designed as a Justification of the whole Treaty, which appears to us neither to be solid, honourable, nor advantageous, for the following Reasons:

1st, Because we know not, whether all the Treaties and Conventions concluded between *England* and *Spain* may be in every Article of them so beneficial to us, as to be fit to be again confirmed and renewed.

2^{dly}, Because as we think it extremely difficult to examine with requisite Nicety, how advantageous every Treaty and Convention between *Great-Britain* and *Spain* may be to us, so we think it absurd to pretend to judge of any future Agreement; and therefore we think it very extraordinary, and apprehend it may be of very ill Consequence to be bound, as we are by this Treaty, to ratify and guaranty whatever Agreement shall be made between the King of *Spain* and the Dukes of *Tuscany* and *Parma*, concerning the Garrisons once established in their Countries.

3^{dly}, Because the Obligation on our Merchants to make Proof of the Justice of their Demands, for their Losses, at the Court of *Spain*, is, in our Opinion, a

Hardship upon them, and not honourable for the Nation; and we are persuaded those unfortunate Gentlemen will undertake so troublesome and expensive a Journey with the less Chearfulness, because they may fear their Claims are likely to be counterballanced by others from the *Spaniards*; and after all they have only the slender Comfort of hoping, if they think there is even any room for 'em to hope, to get that Redress by Commissaries which they have not hitherto been able to obtain by Plenipotentiaries.

4^{thly}, Because we are obliged to assist in effectuating the Introduction of six thousand *Spanish* Troops into the Towns of *Tuscany* and *Parma*, without specifying the Methods we are to take, or Charge we are to be at in giving that Assistance; so that, for aught we know, we may be liable to an endless Trouble and unlimited Expence to compass what, if effected, cannot, in our Opinion be of any Advantage to us, but, as we fear, may prove most prejudicial and destructive.

5^{thly}, Because we oblige ourselves to guaranty for ever, not only to Don *Carlos*, but even to all his Successors, the Right to, and Possession of the Estates of *Tuscany* and *Parma*; which we think is a Stipulation of so extensive a Nature, that we can hardly see we are ever like to be exempted from the Disputes and Quarrels it may too probably draw upon us.

6^{thly}, Because this Treaty differs from the *Quadruple Alliance*, upon which 'tis pretended to be chiefly founded, in some Points that seemed to be thought essential by ourselves, as well as by the Kings of *France* and *Spain*, as far as we can judge by the Stipulations of former Alliances, particularly in that of introducing *Spanish* Troops instead of Neutral into *Tuscany* and *Parma*, and by stipulating that those Troops shall remain there till Don *Carlos* and his Successors are secure and exempt from all Events; which, from the Nature and Extent of human Foresight, we think, the warmest Advocates for the Treaty must allow is in effect to say, they are to remain there for ever.

7^{thly}, Because the Alterations in this Treaty, from that of the *Quadruple Alliance*, are made not only without the Consent of the Emperor, but we fear he will in-

interpret it, since he has not the Compliment paid him of being invited into it, almost in defiance of him? and if this Treatment of him should unhappily alienate his Friendship from us, we think we should, as good *Englishmen*, have great Reason to lament the Loss of such an ancient, powerful and faithful Ally:

8thly, Because we apprehend there is an artful Omision throughout the whole Treaty of any plain and express Stipulation to secure to us our Right to *Gibraltar* and *Minorca*; which, however willing we are to attribute it rather to the superior Skill of the *Spanish* Managers, than to any Want of Zeal for their Country in our own, is an Error that we fear will leave our Possession of those important Places too liable to future Cavils; and we think the *Spaniards* could not, with the least plausible Pretence of Reason, have refused to ascertain our indubitable Right to them, in as strong and explicit Terms as we have declared ourselves Guarantees of the Right, Possession, Tranquillity and Quiet of the *Italian* Dominions allotted to *Don Carlos* and his Successors, since we have had the Complaisance to admit the *Spaniards* to discuss their Pretensions for the Restitution of the Ships taken in the Year 1718, though their Right to that Compensation was as effectually secured to them, as it can be pretended ours is to *Gibraltar* and *Minorca*, by those general Words that renew and confirm all former Treaties.

9thly, Because his Majesty himself, by his Speech from the Throne, seems not entirely free from Apprehensions of new Troubles being still likely to arise in *Europe*, even in resentment of the present Engagements; and if he thought this Peace had settled the publick Tranquillity upon a lasting Foundation, we are confident his paternal Goodness would have inclined him, by a further Reduction of Troops, to have given more Ease to his People, who had long groaned under the heavy Burthen of Taxes, almost insupportable, and a large standing Army, and have had all their Grievances increased by a pernicious Interruption of late of that flourishing Commerce, without which they can neither be happy at home nor respected Abroad.

10thly, Because it appears to us, after the most mature Consideration of all Particulars, that we are much farther obliged than we were before, and than we think we ever ought to be, or meddle in Disputes about Territories at a great Distance from us, and in which our National Interest seems no way concerned; and since one of the principal contracting Parties in that Alliance upon which this is built is not only left out of it, but, as we think, there is Reason to believe extremely disobliged by it; and since it seems impossible to make the Introduction of *Spanish* Troops into *Tuscany* and *Parma*, even by the most prevailing Application, we can use, consistent with the Dignity and Quiet of those Princes, whose Towns they are to garrison; we own our selves upon the whole, incapable of discerning either the Equity or Policy of this Treaty, which we fear will not enable us either to recover what we have lost, or long to preserve quietly and undisturbed what we yet possess; and which, we fear, instead of extricating us out of those Difficulties that we have of late been involved in, and which have been owing in a great measure, in our Judgment, to the Incapacity of those Ministers, by whose Counsels we have been entangled in a Labyrinth of unnecessary, if not prejudicial Treaties and Engagements, will probably be the melancholly Occasion of fresh Disturbances, and bring upon us, already too much impoverished, the Misery and Confusion of a War, which if once kindled, we are convinced, it will be as difficult to know the End, as to determine the Success of such a fatal Event.

| | | |
|--------------------|----------------------|-------------------------------|
| <i>Scarsdale,</i> | <i>Bruce,</i> | <i>Abington,</i> |
| <i>Beaufort,</i> | <i>Boyle,</i> | <i>Warrington,</i> |
| <i>Gower,</i> | <i>Bathurst,</i> | <i>Montjoy,</i> |
| <i>Bedford,</i> | <i>Foley,</i> | <i>Aylesford,</i> |
| <i>Tbanet,</i> | <i>Bridge-water,</i> | <i>Middleton,</i> |
| <i>Anglesey,</i> | <i>Plimouth,</i> | <i>Bristol,</i> |
| <i>Coventry,</i> | <i>Strafford,</i> | <i>Willoughby de Broke,</i> |
| <i>Huntingdon,</i> | <i>Northampton,</i> | <i>Oxford & Mortimer.</i> |

Die Lunæ 16^o Martii, 1729.

The House being moved, That the Bill entitled, *An Act for punishing Mutiny and Desertion, and for the better*

better Payment of the Army and their Quarters, be read a second time on *Friday* next,

The same was objected to, and a nearer Day being proposed,

Contents 19 After the Debate, the Question was put,
Not Cont. 28 whether the said Bill shall be read a second Time on *Friday* next?

It was resolved in the Negative.

Dissentient

Because we conceive, that the Consideration of the State of the Nation; which is appointed for next *Thursday*, ought rather to precede than follow that Deliberation, which will naturally arise upon the Bill of Mutiny and Desertion, concerning the keeping up in time of Peace a standing Army, and the Method of governing that Army, if any shall be judged requisite; which is a Subject of such Importance, that we think hardly any thing of more Moment can fall under our Considerations or that more requires the clearest Light that can be had in order to form a Judgment upon it, not unworthy a *British House of Peers*, zealous for that Freedom which has been delivered down to them from their Ancestors,

| | | |
|-------------------|-------------------|-------------------------------|
| <i>Strafford,</i> | <i>Aylesford,</i> | <i>Northampton,</i> |
| <i>Hereford,</i> | <i>Abingdon,</i> | <i>Foley,</i> |
| <i>Beaufort,</i> | <i>Boyle,</i> | <i>Oxford & Mortimer.</i> |

Die Jovis 19^o Martii, 1729.

The House being moved, That an humble Address be presented to his Majesty, that he will be graciously pleased to order to be laid before this House a List of all Pensions payable by the Crown,

And a Question being itated thereupon,

Contents 30 The previous Question was put, whether
Not. Cont. 83 that Question shall be now put?

It was resolved in the Negative.

Dissentient

1st. Because, we think, this Question ought to have been put and passed in the Affirmative, since no Instance could be given, that the List of Pensions was denied when called for by either House of Parliament; and we cannot imagine there can ever be a more proper Time

to address to the Crown for that List to be laid before this House, when they are to enter upon the Consideration of a Bill which is calculated to prevent the Members of *the House of Commons* for the future from sitting or voting under any undue Influence.

2dly, Because, we conceive, the Refusal of complying with this Question will be misinterpreted without doors, whether the Bill shall pass or be rejected; for, in one Case, it will give just Reason to believe the List of Pensions was filled with Members of *the House of Commons*; and tho' this House would concur to prevent the Evil, they were tender of exposing the Names of particular Persons: In the other Case, it would raise a Jealousy, that there were too many Members of this House who were upon the List; which Aspersions ought, as we conceive, to have been obviated, by producing those Lists, and making them publick as in former Times has been frequently done.

Berkshire,

Beaufort,

Foley,

Oxford and Mortimer,

Abingdon,

Coventry,

Litchfield,

Aylesford

Bathurst,

Thanet,

Strafford,

Gower,

Hereford,

Die Sabbati 21^o Martii, 1729.

Hadit 2^a vice lecta est Billa, entitled, An Act for making more effectual the Laws in Being for disabling Persons from being chosen Members of, or sitting or voting in the House of *Commons*; who have any Pension during Pleasure, or for any Number of Years, or any Offices holden in Trust for them, by obliging all Persons hereafter to be chosen to serve for the Commons in Parliament to take the Oath therein mentioned.

It being proposed to commit the Bill,

After long Debate thereupon,

Contents 31

Not.Cont. 86

The Question was put, whether this Bill shall be committed?

It was resolved in the Negative.

Dissentient'

1st, Because all Objections against particular Clauses of Expressions in the Bill would have been regularly the Subjects of Debate in a Committee, and might have been

been there removed, if it should have appeared necessary, by making such Amendments to the Bill as the Wisdom of the House should have thought proper.

2dly, Because we conceive the general Design of this Bill to be highly reasonable, and of the greatest Importance to the Constitution of Parliaments ; and are therefore extremely concerned it should not receive even the Countenance of a Commitment, when *the House of Commons*, who alone would have been immediately affected by it, had passed it, as we apprehend, with so much Regard to their Country, and so much Honour to themselves.

3dly, Because this Bill does, in effect, enact nothing new, since it only enforces the Observation and prevents the Evasions of former Laws, which were judged necessary for the Publick Good by so many Parliaments, and which we do not apprehend that our Experience since has given us Reason to look upon as less necessary for the same Purposes at this Time : By one of those Laws no Person, who has a Pension from the Crown during Pleasure, can sit in *the House of Commons* ; but the Effect of this Law was, or might have been evaded, in great measure, by Grants of Pensions for certain Terms of Years, wherefore we presume that Examples have not been wanting. To remedy or prevent this Abuse, it was enacted by another Law, that no Person, who enjoys a Pension from the Crown for any Number of Years, shall sit in *the House of Commons*, under certain Penalties therein mentioned ; but the effect of this Law likewise is, or may be entirely evaded several ways ; it is or may be evaded by giving occasional Gratuities or making annual Presents, which will not be construed to fall under the Denomination of Pensions, and which are, however, in their Nature, and must be in their Effect, manifestly the same ; it is or may be evaded also by the Difficulty of discovering and convicting those who presume to break it, since there is Ground to believe, by what has happened lately in this House, as well as on some other Occasions, that the Commons would find it difficult to obtain those Accounts which can alone shew what Pensions are paid to particular Persons. We observe further, that by the Laws now in Force all those
who

who hold certain Offices therein specified, as well as those who hold any Offices erected since that Time, are made incapable of sitting in *the House of Commons*; and that whoever accepts of any Office or Employment under the Crown cannot sit in that House till he has been re-elected. Now it appears to us, that all those good and laudable Provisions may be render'd fruitless; that *the House of Commons* may be filled with Persons who are by Law incapable of sitting there; that the Electors may be deprived of that reasonable Option which the Law has given them, whether they will trust the same Person to represent them, after he has accepted an Employment, whom they elected to represent them when he had none; and all this may be effected by the single Expedient of getting an Office or Employment to be held by some Person who is not a Member of *the House of Commons*, in Trust for one who is. We shall not determine on publick Fame or private Suspicion, whether all or some of these Abuses and Evasions of so many Acts of Parliament have prevail'd or not; but since it is evident, that they may be easily introduced under a corrupt Administration, we must be of Opinion, that a Law which would prevent them as effectually as, we believe, the Bill sent up by the Commons would have done, could not have met with too great Encouragement from this House, nor have been passed too soon.

4^{thly}, Because it appears to us, that the Arguments used against this Bill, drawn from the Necessity or Expediency of preserving an Influence to the Crown by the Power of rewarding, are either not at all to the present Purpose, or else are applied to prove, that an Influence guarded against by so many solemn Acts of Parliament should be admitted by the Connivance of Parliament; and, we think, it would be much more for the Honour of this House, if these Arguments were of real Weight, to be prevailed upon by them directly to repeal the Laws above-mentioned, than, by rejecting a Bill designed to render those Laws effectual, to seem, as we apprehend, to approve all the Evasions of them, which have been or can be invented and put in Practice.

5^{thly}, Because we think, that altho' this Bill tends to restrain any legal and dangerous Influence over *the House of*

Commons, yet it leaves such an Influence entire to the Crown as will appear at least sufficient, when we consider that there are in the present *House of Commons* hardly less than two hundred Members who hold such Offices and Employments under the Crown, as would have continued to be tenable by them, if this Bill had passed, and even the Power of granting Pensions for Life to Members of Parliament openly would have still remained in the Crown.

6thly, Because, strictly speaking, all Influence over either House of Parliament, except that which arises from a Sense of those Duties which we owe to our King and Country, are improper; and the particular Influences which this Bill was intended to prevent are not only improper, but may, and naturally must, in Course of Time, become extremely pernicious both to the Crown and to the People; for, first, altho' this Influence appears to be that of the Crown, it may become virtually that of the Minister, and be applied to deceive the Prince as well as to oppress the People, if ever a corrupt Minister should have the Disposition of Place and the Distribution of Pensions, Gratuities, and Rewards, he may create such an Influence as shall effectually deprive the Prince of the great Advantage of knowing the true Sense of his People; and a House of Parliament being prevailed upon to approve such Measures as the whole Nation dislikes, so may be confirmed in the Pursuit of them; and for the Sake of an unworthy Servant, lose the Affections of his People, whilst he imagines that he both deserves and possesses them. In the next Place, if ever this improper Influence should obtain a certain Degree of Strength, these terrible Consequences must inevitably flow from it, That the worst Proposals for the Publick will be the most likely to succeed, and that the weakest Ministers will be the best supported; the Reason whereof we take to be extremely plain, since this improper Influence may be directed to any Purpose whatsoever, and will always be most exerted where it is most wanted, that is, in the Support of all Measures and weak Ministers.

7thly, Because we agree, that as National or other Circumstances have exposed the Crown to any new Danger,

ger, the Security of Fidelity and Allegiance give the Oaths of the Subjects to the Crown has been increased from Time to Time; and we therefore think that, by a Parity of Reason, some greater Security was formerly exacted should be now given to the Crown, by their Representatives, for a faithful Discharge of the Trust reposed in them; because this Trust, which was the same as it was in every other Respect, is become much greater than it was, in Respect to those Taxes which have been for many Years past, which, as we fear, must be for all succeeding Time annually laid by Parliament on the People, as well those immense Debts which have been contracted, which we apprehend to have annually increased the Nation: The Service of *the House of Commons* formerly a real Service, therefore often declined and ways paid for by the People; it is now no longer paid by the People, and so far from being declined, it has been courted and sought after at great Expence. For these Considerations, together with that of the Increase of the Civil-List Revenue, and of the Debts contracted on it in former Reigns, deserve to enforce Reasons for exacting some new and stronger Engagements from the Members of *the House of Commons* those whom they are chosen to represent, is, we think sufficiently obvious.

8thly, Altho' it must be allow'd, that the multiplicity of Oaths, without great and evident Reasons, ought to be avoided, yet an Oath being the most solemn Engagement which Men can be laid under, we judge it, on every Account, the more proper to be imposed upon an important Occasion; nor will the Probability of it being broke through by the Iniquity of Mankind be an Argument of greater Force against this Bill, than against any other Law made for preventing any other Crime whatsoever.

Huntingdon,
Bruce,
Plimouth,
Montjoy,
Northampton,
Strafford,

Ker,
Sunderland,
Berkshire,
Aylesford,
Litchfield,
Maynard,

Bristol,
Bathurst,
Beaufort,
Warrington,
Gower,
Abingdon,

| | | |
|-----------------------------|------------------|----------------|
| <i>Hersford,</i> | <i>Foyle,</i> | <i>Boyle,</i> |
| <i>Craven,</i> | <i>Coventry,</i> | <i>Thanet,</i> |
| <i>Oxford and Mortimer,</i> | <i>Masbam,</i> | |

Then the Question was put, whether the said Bill shall be rejected?

It was resolved in the Affirmative.

Dissentient

1st, Because the evident Intention of this Bill was only to make a further Advance towards gaining that good End which the Legislature hitherto has, we fear, too weakly endeavoured to compass, the Prevention of Corruption, which, it must be owned, is an Evil of so mischievous a Nature, so apt to spread and grow epidemical, that a wise and virtuous People will apply the most timely and effectual Remedies that can be devised for the Cure of it, since a Nation once infected must soon get the Better of so contagious a Distemper, or it will soon get the Better of the Nation.

2^{dly}, Because we can hardly frame in our own Minds a more reasonable Method than the Sanction of such an Oath of Purgation as was to have been taken by all the Members of the *House of Commons*, if this Bill had passed into a Law, to preserve that Part of the Legislature pure and free from that Kind of Bribery, which seems, from the Nature of it, to be the most pernicious, a secret and unavowed Pension; or what, however different in Name, would, we fear, be too much the same in Effect, an Office in Trust, or a clandestine Gratuity.

3^{dly}, Because the Act of Parliament which passed last Year, tho' it contains some excellent Provisions against Bribery and Corruption, and ought, in our Opinion, ever to be held sacred, inviolable, and a fundamental Part of our yet free Constitution, wanted still something, as we judge, to make it more complete, by establishing an Oath for the Elected as well as the Electors; which being done by this Bill, we cannot but look upon it to have been a seasonable and necessary Addition to those Laws already enacted for the same Purpose, in Order to guard us more strongly against the powerful and malignant Influence of wicked, aspiring, and despotic Ministers, who can invent no Artifices so likely to subvert the Liberties of the People, as by corrupting those who are chosen to defend them.

Atty.

4thly, Because, we apprehend, *the House of Common* may think themselves unkindly treated by us for rejecting a Bill sent from them of great Consequence, by which they designed only to secure their own Honour and the Nation's Liberties, and that concerned only their own Members, without allowing it even the usual Forms of a Commitment; and the rest of our Fellow-Subjects with, we fear, hardly be charitable enough to think that one House of Parliament could be perfectly unbiassed, when it refused so proper an Expedient to make, in a great Measure; the other so.

| | | |
|-------------------------------------|-------------------|---------------------|
| <i>Plimouth,</i> | <i>Berkshire,</i> | <i>Litchfield;</i> |
| <i>Beaufort,</i> | <i>Stratford,</i> | <i>Ker,</i> |
| <i>Montjoy,</i> | <i>Aylesford,</i> | <i>Sunderland,</i> |
| <i>Warrington,</i> | <i>Bruce,</i> | <i>Bristol,</i> |
| <i>Gower,</i> | <i>Masbam,</i> | <i>Craven,</i> |
| <i>Bathurst,</i> | <i>Maynard.</i> | <i>Huntingdon,</i> |
| <i>Boyle,</i> | <i>Coventry,</i> | <i>Abingdon,</i> |
| <i>Hereford,</i> | <i>Foley,</i> | <i>Northampton.</i> |
| <i>Oxford and Mortimer, Thanet,</i> | | |

Die Luna 23. Martii, 1729.

Hodie 3^a vice lecta est Billa, entitled, *An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.*

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

Because we think, that so large a Number as is proposed to be kept up in this Kingdom for this Year, by this Bill, is not necessary for our Safety, as far as we can judge from the present Conjuncture of Affairs; and that a standing Army in Time of Peace must be always burthensome to the People and dangerous to their Liberties, for Reasons often given by several Lords, and remaining upon the Journals of this House, to which we choose to refer, rather than repeat them, in Order to prove a Proposition that we think almost manifest in itself, or at least may easily be maintained by Arguments undeniably convincing, and so obvious, in our Opinion, that they must occur upon the least Reflection to every *Englishman who loves his Country and his Freedom.*

Mund

Montjoy,
Strafford,

Abingdon,

Beaufort.

Die Veneris 17^o Aprilis, 1730.

The Order of the Day for taking into Consideration the State of the Nation being read,

It was moved to resolve, That the maintaining of twelve Thousand *Hessians* in the Pay of *Great-Britain*, for the Year 1730, is burthensome and unnecessary.

Contents 21 After Debate, the Question was put Not Cont. 80 thereon? And,

It was resolved in the Negative.

Dissentient

1st, Because, we think, the maintaining Foreign Troops in our Pay, where we have no Territory, and not only when we have no War, but immediately after a Peace concluded with one of the most considerable Powers in *Europe*, whilst we are in Alliance with *Holland*, and are in strict Friendship with *France*, the most considerable Power of all, is a Policy, that before this Instance of it cannot be parallel'd, as far as we can recollect, in all our Annals, and must be owing to the Advice of Ministers less cautious and less concerned for the true Interest of this Kingdom than their Duty obliged them to be; and we cannot, out of the Regard we owe to our Posterity, consent to it.

2^{dly}, Because the Importance of the Service, in which they are design'd to be employ'd, does no Way appear to us, and we fear it may create an Apprehension that they may be intended for Purposes that do not concern *Great-Britain*; which is a Jealousy (however ill founded) that we are persuaded from his Majesty's Goodness he will always be inclined to prevent for his People's Sake, and his Counsellors, we think, ought, if possible to prevent for their own.

3^{dly}, Because, we think, it would be an unreasonable Burthen upon the People at any Time, but we look upon it to be particularly so at this, whilst we are still heavily loaded with an immense National-Debt, several annual Taxes, oppressive and perpetual Excises, and had of late the additional Misfortune of an unusual excessive Dearth of almost all Necessaries for Liv-

whilst our Commerce, we cannot but fear, has been declining for some Years, and many valuable Branches of it running into other Channels, from whence we have but little Expectation of ever deriving them again into our own; when the dubious and unhappy Situation of Affairs, under which we have laboured of late, has reduced many substantial Merchants to Poverty, and has been productive of other ill Consequences that, we apprehend, will be sensibly felt for some Time by the whole Nation; when the Sum which is to be allowed for the Maintenance of these Troops is at least Six-pence in the Pound on every landed Man's Estate in *England*; and when we avowedly pay, at the same Time, greater Subsidies to other foreign Princes than our present Circumstances, in our Opinion, can well bear, or than any wise Reasons of State seem to require.

ably, because it does not appear to us, that his Majesty, either in any Speech or by any Message, has demanded any Supply for what seems to us so extraordinary a Charge; and he seems not to think them necessary for our Safety at home, since he has lately disbanded some of our own; and we cannot find we are under any direct Stipulation to maintain them for the Safety of our Allies, abroad, who notwithstanding the various Engagements and Multiplicity of Treaties, with which we have, within the Compass of a few Years, most incautiously, as we fear, entangled ourselves, have no Right to require Succours from us, till by some Molestation or hostile Attack the publick Tranquillity is disturbed; which Misfortune may still, as we hope, be prevented, if such Measures are taken as it becomes able and upright Statesmen always to pursue, if the Reputation of our Wisdom and Power is alone sufficient, as it ought to be, to procure us equal and useful Alliances, and it always will be, when the Affairs of the Kingdom are administer'd as they ought to be, and if to save our Friends from Dangers that perhaps are only imaginary, we do not run into real ones ourselves.

Beckwith,
Scarfsdale,
Strassford,
Maynard,

Coventry,
Huntingdon,
Northampton,
Abingdon,

Montjoy,
Craven,
Plimouth,
Litchfield,
Boyle,

Boyle,

Aylesford.

Gower.

Oxford & Mortimer, Willoughby de Broke,

Die Martis 2^o Martii, 1730.

Hodie 2^a vice lecta est Billa, entitled, An Act for making more effectual the Laws in Being for disabling Persons from being chosen Members of, or sitting or voting in *the House of Commons*, who have any Pension during Pleasure or for any Number of Years, or any Office holden in Trust for them, by obliging Persons hereafter to be chosen to serve for the Commons in Parliament to take the Oath therein mentioned.

Proposed to commit the Bill.

After long Debate, the Question was put, whether this Bill shall be committed?

It was resolved in the Negative.

Then the Question was put, whether the said Bill shall be rejected?

It was resolved in the Affirmative.

Dissentient

1st, Because the Reasons which were enter'd on our Journals last Session for the Commitment, and again the Rejection of this Bill, can, in our Judgment, have nothing of Weight said against them, and, as we think they want little to be added to them, but they seem to us to be strengthened upon this Occasion; and lest our second Refusal to concur with *the House of Commons* in what solely regards their own Members, and without any Arguments offered to them in a parliamentary Way for that Refusal, should be looked upon by them as a unkind, if not unprecedented Treatment, and should in the Opinion of many disinterested Lovers of our ancient Frame of Government, too easily create in them a Resentment that might interrupt the Harmony between the two Houses, which is necessary for carrying on the most important Affairs of the Nation.

2^{dly}, Because the Commons seemed to think the Bill is wanted, and we are persuaded it is earnestly desired by the People, and so wisely contrived by a solemn and strict Oath of Purgation to guard against secret Corruption in that Place, where, if ever it should be prevalent its Consequences would be most pernicious and extensive

the

that we fear we should be expos'd to some uncharitable Suspensions, if we did not, in this most authentick Manner the Constitution of Parliament will allow, from a becoming Zeal to hinder the Infection of so mischievous an Evil from spreading among others, give an undeniable Proof that we are untainted with it ourselves.

3dly, Because a Member of Parliament, who is not ashamed to accept a Gratuity for any Service which he is ashamed publickly to avow, must be conscious to himself, as we fear, that he is guilty of an immoral Action; and therefore we conceive ourselves obliged not only in Policy but in Conscience too, to yield our Assent to a Bill that, as far as we could observe upon the most mature and serious Reflection, contained a proper Expedient, in this limited Monarchy, to preserve both the Innocence and Independency of elected Legislatures, and that, we had reasonable Hopes, would in a great Measure have prevented the Danger of an infamous Breach of Trust of the highest Nature repos'd in every single Member of the lower House for the Benefit of the whole Community; which we think is a Crime that ought to be dreaded by us, as good Patriots, and that we are bound to abhor, as sincere Christians.

4thly, Because we cannot but, with Grief of Heart, lament the Loss of that Opportunity which, by enacting this Bill into a Law, we assure ourselves, his Majesty would have embraced with particular Satisfaction of demonstrating to all his Subjects, that he is incapable of suffering an improper Use to be made, by any of his Servants, of that large Revenue, which a Parliament, liberal beyond any Example of their Predecessors, so cheerfully gave him, or of entertaining to himself the least Thought to the Prejudice of the Liberties or Properties of his People, by any unjustifiable Influence on their Representatives.

Bruce,
Berkshire,
Northampton,
Plimouth,
Bedford,
Foley,
Gainsborough,

Gower,
Maynard,
Abergavenny,
Strafford,
Thanet,
Warrington,
Aylesford,

Litchfield,
Cadogan,
Bristol,
Coventry,
Bridgewater,
Abingdon,
Boyle,

*Oxford & Mortimer, Lancaster, G. S. Bathurst.
Willoughby de Broke,*

Die Jovis 17^o Februarii, 1731.

A Message was brought from the House of Commons by Mr. Sandys and others, with a Bill entitled, *An Act for making more effectual the Laws in Being for disabling Persons from being chosen Members of, or sitting or acting in the House of Commons, who have any Pension during Pleasure, or for any Number of Years, or any Offices held in Trust for them; to which they desire the Concurrence of this House.*

The said Bill was read the first Time.

After Debate, proposed to reject this Bill.

Moved, That the same be read a second Time on Tuesday next.

| | | | |
|-----------|----|------|--|
| Contents | 25 | } 40 | After further Debate, the Question was put, whether this Bill shall be read a second Time? |
| Proxies | 15 | | |
| Not Cont. | 78 | } 95 | It was resolved in the Negative. |
| Proxies | 17 | | |

Dissentient.

For the Reasons enter'd in the Journals of this House the two last Sessions of Parliament, one the 21st of March 1729, and the other the 2^d of March 1730.

| | | |
|-------------------|---------------------|------------------|
| <i>Strafford,</i> | <i>Shaftesbury,</i> | <i>Maynard,</i> |
| <i>Abingdon,</i> | <i>Litchfield,</i> | <i>Gower,</i> |
| <i>Craven,</i> | <i>Foley,</i> | <i>Masbam,</i> |
| <i>Bathurst,</i> | <i>Exeter,</i> | <i>Coventry.</i> |

Die Jovis 24^o Februarii, 1731.

A Message was brought from the House of Commons by Sir William Strickland, Secretary at War, and others, with a Bill entitled, *An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters; to which they desire the Concurrence of this House.*

The said Bill was read the first Time.

Proposed, That the same be read a second Time on Tuesday next.

After Debate, it was moved, That the said Bill be not read a second Time,

After further Debate, the Question was put, whether this Bill shall be read a second Time? And

It was resolved in the Affirmative.

Dissentient

Because we conceive, that no Countenance ought to be given to any Act that may possibly lessen the Affections of the People to the King, they being his Guard; and we apprehend, that the keeping in Time of Peace, a greater Number of Forces than be well governed by the established Laws, is inconsistent with the Notion of the Government of a free People.

Abingdon,

Bristol,

Exeter.

Strafford,

Litchfield,

Die Martis 7^o Martii, 1731.

The Order of the Day being read for the House put into a Committee of the whole House upon the Bill entitled, *An Act for punishing Mutiny and Desertion for the better Payment of the Army and their Quar-*

Proposed; That it be an Instruction to the said Committee, that the Number of Men specified in the Bill do not exceed twelve Thousand.

Contents 27 After long Debate, the Question was
Not Cont. 88 whether such an Instruction should be given to the said Committee?

It was resolved in the Negative.

Dissentient

1st, Because so great a Number of Troops as is proposed by this Bill was never before allowed by Parliament in Time of settled Peace, and no Reason was given in Opposition to the Instruction, but what, we conceive, must equally hold good in all future Time when can we hope to see a Session of Parliament with more satisfactory Declarations and stronger Assurances of Happiness and Security, than those contained in His Majesty's most gracious Speech from the Throne the first Day of this Session: His Majesty is pleased to declare, that his Expectations are fulfilled; that the general Tranquillity of Europe is restored and established; that the tedious Work is performed and finished; that the Wounds which have been bleeding are entirely healed; that the national Expence will be considerably lessened, and that the Nation reap the Fruits of his Endeavours. In such a Sit-

of Affairs, we conceive, that we could not act consistently with his Majesty's gracious Disposition to his People, agreeably to the Honour of this House, nor with that Regard we must always have for the Liberties of our fellow Subjects, without endeavouring to reduce the Number of Troops specified in the Bill. *Abingdon.*

2dly, Because the settled State of Affairs at home and the great Duty and Affection his Majesty's Subjects have shewn to him on all Occasions should in our Opinion be a full Answer to all Arguments that can be drawn to justify the keeping up so great a Number of Troops, from any Apprehensions of a *Pretender* to the Throne; for if the present Circumstances of this Nation be compared with the Situation of Affairs after the Treaty of *Ryswick* or that of *Utrecht*, these Kingdoms will be found infinitely more secure in that Particular. In the first Period of Time, the late King *James* was living, who had an *Irish* Army in his Pay in *France*; many of his old Servants and Soldiers were then alive and active in *England* and *Scotland*; a potent Prince and Nation always supporting him, and ready at any Time to arm in his Cause: As to the second Period of Time, the *Pretender* was in the Neighbourhood of *France*, that the *French* King who had maintained him and his Family was still living, and the Protestant Succession had not then taken Place; yet in both these Points of Time, half the Number of Troops allowed by the present Bill was not only thought by Parliament, but by Experience found, sufficient for our Security: How little Foundation then does there seem to be for continuing such a Number of Forces at this Juncture, when the *Pretender* has been long removed beyond the *Alps*, and a Prince on the Throne of *France* who seems more intent to make his own Dominions flourish by Trade, than out of a restless Ambition to disturb his Neighbours! Sufficient Reasons may be drawn from the present Situation of Affairs in that Kingdom, as well as those of *Spain*, to increase our naval Force, but none, in our Opinion, for maintaining such an Army at Land; the present Royal Family is now (God be praised) firmly seated on the Throne, and nothing can shake it but an Administration which shall venture to depart from the Principles on

which the Act of Settlement was founded; that ment was founded on Liberty, and by the same Things must be coeval with Liberty.

3^{dly}, Because it has hitherto been thought the peculiar of our Situation, as an Island, that we have had the same Occasion for Numbers of Troops as those on the Continent; to prevent the Loss of their Neighbours, they have been obliged to keep standing Armies, which have generally been the Cause of the Loss of their Liberties, and always provide Means of fixing their Chains upon them.

4^{thly}, Because we are fully convinced that his Majesty will reign the more firmly in the Hearts of all his Subjects, the more he places his Confidence in them; we conceive it to be an Indignity to him, to suggest he cannot now be secure on the Throne, without the assistance of a greater standing Force than ever his Father was contented with in Times of less Tranquillity. Although it seemed to be the Tendency of some Arguments used against the Question, yet we cannot be brought to believe, that this Nation is in Danger of being over-run by any Foreign Force; our Apprehension is, that it only can be ruined and enslaved by a standing Army at home; and we are justly jealous from Experience of former Times that the Crown as well as the Liberties of the People, may be for Length to be at their Disposal.

Lastly, We refer to the four first Reasons entered in our Journal the 24th Day of February in the Year signed by many Lords of this House.

| | | |
|--------------|--------------|------------------|
| Boyle, | Litchfield, | Scarsdale, |
| Shaftesbury, | Exeter, | Ker, |
| Felby, | Craven, | Coventry, |
| Suffolk, | Tadcaster, | Carteret, |
| Bristol, | Northampton, | Bathurst, |
| Maynard, | Bridgewater, | Gower, |
| Tweeddale, | Thanet, | Wa. and Notting. |
| Aylesford, | Strafford, | |

Die Mercurii 29° Martii, 1732.

The Order of the Day being read for the House put into a Committee upon the Bill entitled, *An*

revising the Duties on Salt for the Term therein mention'd.

Moved, That it be an Instruction to the said Committee, that they do receive a Clause to exempt all Salt used for manuring of Land from the Duties laid by the said Bill.

Contents 21 After Debate, the Question was put there-

Not Cont. 74 upon ? And,

It was resolved in the Negative.

Dissentient'

Because it has been found by Experience, during the Time the Duties upon Salt were taken off, that great Improvements have been made in several Parts of the Kingdom, by using Salt in manuring of Land, but by the Revival of those Duties, without the Provision designed by this Instruction, there must be a total Stop put to all Improvements of that Nature; and we are convinced that in a few Years the Lands of *England* might have been raised, by the Use of this Manure, more than double what this Tax will produce to the Government; and we apprehend this to be a very improper Time to check the Industry of the People, and prevent their domestic Improvements, since, we fear, the national Wealth is not likely to be increased at this Time by any foreign Commerce.

Sturminster,

Strafford,

Boyle,

W. & Nottingham,

Thanet,

Ker,

Batburst,

Shaftesbury,

Northampton,

Litchfield,

Suffolk,

Coventry,

Carteret,

Abingdon,

Briarwater,

Warrington,

Tweeddale,

Gower,

Masbarn,

Bristol,

Moved, That it be an Instruction to the said Committee, that they do receive a Clause to exempt, from the Duties laid by the Bill all home-made Salt used in victualling of Ships.

Contents 21 After Debate, the Question was put

Not Cont. 75 thereon ? And,

It was resolved in the Negative.

Dissentient'

1st. Because the Duties to be laid by this Bill on all home-made Salt used for victualling of Ships increases the Expence of the Royal Navy, and is a heavy Burthen upon

the Trade and Navigation of the Kingdom, and may sensibly affect the Merchants, already under Difficulties by Reason of the Decay of Trade, many grievous Losses they have sustained, and Ships they have undergone, by Depredations, and Confiscations, too severely felt by most of the Inhabitants of *Great-Britain*, and too publickly known and doubted of.

2dly, Because this Duty upon our home-bound must occasion many of our Merchants to visit Ships abroad, to the Diminution of the national Trade, and to the great Detriment of the landed Interest of the Kingdom.

| | | |
|--------------------|---------------------|---------------------|
| <i>Stratford,</i> | <i>Scarfdale,</i> | <i>Litchfield,</i> |
| <i>Walsingham,</i> | <i>Shaftesbury,</i> | <i>Bridgewater,</i> |
| <i>Tweedale,</i> | <i>Boyle,</i> | <i>Gower,</i> |
| <i>Suffolk,</i> | <i>Coventry,</i> | <i>Masbam,</i> |
| <i>Bristol,</i> | <i>Bathurst,</i> | <i>Warring,</i> |
| <i>Ker,</i> | <i>Carteret,</i> | <i>Northam,</i> |
| <i>Abingdon,</i> | <i>Thanet,</i> | |

Moved, That it be an Instruction to the said Committee, that they do receive a Clause to restrain the said Officers, during the Time he shall be concerned or employed in the Charging, collecting, levying or managing the Duties to be granted by the Bill, from being or turning Officer, or voting or influencing any Freeholder to vote in Elections of Members to serve in Parliament. Contents 21 After Debate, the Question put, Whether the said Clause be necessary? And, Not Cont. 71 thereon? And,

It was resolved in the Negative.

Dissentient

1st, Because the Officers employed in the Customs, the Excise, in other Branches of the Revenue, and in other Parts of the publick Service, are already too numerous; they compose, in Effect, a second Army, and are perhaps, in some Respects, more dangerous than that Body of Men properly so called, the Militia, the Influence which they have in the Elections of Members to serve in Parliament has been too often felt to be too great; and we presume, that Examples are not wanting to find, where the military Forces have been wisely employed, to create the Appearance of a free Election,

standing civil Forces of this Kind have been sent to take this Freedom away. Should we suffer this Invasion on the Freedom of Election to continue much more to increase, it will be easy, in our Opinion, to demonstrate, that one vital Principal of our present Constitution and the Freedom of the *British* Government must be lost, since *the House of Commons* might indeed afterwards be a Representative of an Administration, or of one single Minister, but could no longer be a true Representative of the People. We think ourselves obliged therefore to oppose the Growth of so great an Evil upon every Occasion; and we apprehend that every such Increase of the Officers of the Revenue, as this Bill imports, is strictly, such an Occasion; and therefore we think the Instruction should have been agreed to, that we might not add to that Evil which, we conceive, is already too great.

2dly, Because from the very Institution of Parliaments, at least from the Time when they began to be composed and held in the Manner and for all the Purposes they now are, the principal Aim of the Enemies of publick Liberty has been to enable the Crown to govern without them, or to corrupt their Members, or to destroy the Freedom of their Elections: From the same Time we may date the constant Care which has been taken by the Friends of the Publick. Liberty to ward off those several Dangers; and the Laws which appear in our Statute Books for regulating Elections of Members to serve in Parliament, as well as the Qualifications of the Electors and the Elected, are standing Monuments, which shew how early those Dangers began, and that the Opposition to them began as early: The Form of our Government, as it has been settled since the Revolution, leaves no longer Room to apprehend the first of the Attempts mentioned; the Wisdom of this House has seemed, by rejecting the Pension Bill three Times successively, to think the Laws already in Force sufficient to prevent the Second; but the Third must, in our Opinion, be looked upon to be a growing Danger, and to require extreme Watchfulness against the Consequence of it, as long as the many heavy Taxes, and the present Management of the publick Revenues keep up in all

Parts of the Nation such an exorbitant Number of Receivers, Supervisors, Collectors, and other Tax-gatherers, who are maintained by the People, but are solely directed by the Treasury. The State of Property, and the Nature of Tenants anciently, the real as well as pretended Prerogatives in times more modern, gave to the Crown, among other Influences, a very great one in the Elections of Members of Parliament. Thanks be to God, and to the Virtue of our Forefathers, this State of Property is altered, these Tenures are abolished, and these Prerogatives are either taken away or limited, fined and fixed by Law; there will remain therefore no Means of destroying the Freedom of Elections, except those of Corruption, which we hope, may be rendered ineffectual, by the Law to which this House consented two Sessions ago, to the entire Satisfaction of the whole Nation; unless the Dangers we are apprehensive of should arise by establishing such Augmentations of the Number of Officers employed in the Revenue, without Restrictions to prevent them from being returning Officers, or voting or influencing any Elector to vote in future Elections.

3dly, Because we apprehend that if any such Augmentations without the aforesaid Cautions are suffered to be made, greater Danger will arise, from this new Influence, to the Freedom of Elections, and by consequence to the Constitution of our Government, than ever did arise when the Prerogative was carried to the utmost height, and the Influence of the Crown was the most severely felt and complained of; we apprehend that this exorbitant Number of Officers may, one time or other, effect the Destruction of those Liberties for the Preservation of which the Taxes were given, which these Officers are employed to collect. We apprehend, that by consenting to the Increase of these Officers, without Restriction, we shall contribute to such an Influence as may prove more fatal to Liberty than any of those which were formerly acquired, because it will be the Effect of a parliamentary Establishment, and will make its Way the more surely, by making it indirectly, secretly, and silently.

Stratford,

| | | |
|--------------------|------------------------------|---------------------|
| <i>Ittraford,</i> | <i>Scarsdale,</i> | <i>Shaftesbury,</i> |
| <i>Warrington,</i> | <i>Bristol,</i> | <i>Batburs,</i> |
| <i>Litchfield,</i> | <i>Boyle,</i> | <i>Suffolk,</i> |
| <i>Coventry,</i> | <i>Masham,</i> | <i>Bridgewater,</i> |
| <i>Tweedale,</i> | <i>Wa. & Nottingham,</i> | <i>Ker,</i> |
| <i>Gewer,</i> | <i>Carteret,</i> | <i>Northampton.</i> |
| <i>Thauet,</i> | | |

Die Veneris 32^o Martii, 1732.

Hodie 3^a vice lecta est Billa, entitled, An Act for reviving the Duties on Salt for the Term therein mentioned.

After Debate, the Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentiens

1st, Because this Tax hath been found, by long Experience, to be most grievous for the Subject; for which Reason the Parliament lately, upon the Recommendation of his Majesty from the Throne, chose to repeal this, and the most oppressive Part of the Sinking-Fund, for the Ease and Relief of the Subject: It may therefore seem very extraordinary, that in so short a Time, before the People have received much Benefit from it, in a Time of Peace, and without any Necessity (that appears to us) and when the Supply might be raised with less Charge and Inconvenience within the Year, we should have recourse to a Tax too odious and oppressive to be continued, even for the Payment of the National Debt.

Abington.

2^{dly}, Because we have Reason to believe the Parliament would not have cut off such a Branch of the Sinking-Fund (which has been esteemed so sacred and necessary) if it could have been thought that it could ever have been applied to any other Use; and it may give cause to apprehend, that the rest of the Sinking-Fund may, by the same Means and to the same Purposes, be occasionally diminished, till it is reduced too low to satisfy the publick Creditors, and discharge the immense Debts of the Nation: Which Opinion (if it should once prevail) would effectually destroy the Publick Credit, and involve

volve the King and Kingdom in inextricable Difficulties.

3dly, Because this Tax, instead of being applied to the Payment of our Debts, occasions the Increase of them; and instead of raising the Supply within the which is always most eligible, even in Time of War, if it can be done, and which Method (if it had been taken at first and pursued) had left the Nation free and unincumber'd to us and our Posterity, we now move the Revenue, in Time of Peace, for a Term of Years, tho' but a short one, and yet what the People notwithstanding apprehend will be continued, and be a Precedent in all Supplies for the future; which Method of anticipating the Revenue must necessarily weaken the Government, by depriving it of the Means necessary for its Support in case of any sudden Emergent War, or other publick Calamity, and in consequence throw all the Weight of the Publick Expence upon the Landed Interest, which will pay dear for the Revenue one Shilling in the Pound only in this Year's Tax.

4thly, Because it is liable to Frauds and great Abuses, which make the real Produce into the Excise little, tho' it raises much upon the People; and occasions great Discouragement to the Fishery, and a Barrier upon the Trade and Navigation of the Kingdom.

5thly, Because it is not only a great Burthen upon the Landed Estates, and particularly to the Grassing-Fields, but even a Prohibition to all Improvements of Land in those Parts where it is used for Manure.

6thly, Because as this Excise is proposed without any apparent Necessity, or Convenience to the Publick, or even any Real Advantage (as is suggested) to the Landed Interest, it must necessarily create a Jealousy in the People, that it is a Step and Introduction to a more general one; than which nothing can be more odious and dreaded, but a standing Army, that must necessarily tend the Execution of it.

7thly, Because Scotland being charged only with one Shilling per Bushel on Salt, which is not a third Part of the Duty, introduceth an Inequality in Trade, contrary to that which seems established by the Articles of

nion, and tends to the keeping up invidious Distinctions between the two Parts of the united Kingdom. It may justly be doubted, if the Exemption from this Duty at the Time of the Union is a sufficient Reason for the like now, since the Duty was appropriated to the Debts of *England* contracted before, and is now revived for the current Service of this Year; yet, under the Appearance of Favour, the People of *Scotland* will, at least, pay in three Years the full Sum of 24,672 *l.* for the saving of the one Shilling in the Pound Land-Tax, in the current Year, amounting to less than 12,000 *l.* So that *Scotland*, instead of being eased by this Bill, is doubly loaded and restrained in her Trade upon Account of this Distinction; and all the Bounties upon Exportation payable now there by Law, are render'd precarious, and consequently this Tax should not, in our Opinions, have been imposed.

8thly, Because the Subjects are laid under grievous Penalties by this Bill, the incurring of which cannot, in many Cases, be prevented, notwithstanding the strictest Care; whereby the most innocent may be subjected to the Discretion and Mercy of the Commissioners and Officers of the Revenue, wherein the greatest Partiality may be exercised.

9thly, Because all Taxes which require a Multitude of Officers to be employed in collecting them, and which give thereby both Occasion and Pretence to quarter Numbers of useless Subjects on the Labour and Industry of others, become so chargeable and oppressive, that they are hardly borne in the most arbitrary Governments; and that they seem repugnant to the very Nature of a Government constituted like ours. The sole Expence of levying this Tax, added to the Interest which must be paid for Loans made on the Credit of it, will appear, on a fair Calculation, sufficient to discharge in a competent Number of Years, the Principal and Interest of the whole Sum for which the Supply is given. In point of good Husbandry therefore, we think, that Tax of this Nature should be rejected in any Country where Reason is not subdued by Force, and where private Will has not been yet received for Law; but a limited Monarchy, like this of *Great Britain*; who

the Powers of the Constitution are divided and divided, and yet the whole executive Power is intrusted to the Prince, we apprehend, that these frequent augmentations of the Number of Officers appointed and paid by the Authority of the Crown employ'd in collecting and managing Revenues, are no Part of the Revenue of the Crown, ought to be esteemed dangerous to Publick Liberty, and fit to be avoided by superior Reason to be eternally avoided.

| | | |
|---------------------------|---------------------|-----------------|
| <i>Bridgewater,</i> | <i>Tweeddale,</i> | <i>Scarsh</i> |
| <i>Shaftesbury,</i> | <i>Strafford,</i> | <i>Warri</i> |
| <i>Carteret,</i> | <i>Northampton,</i> | <i>Litchf.</i> |
| <i>Bathurst,</i> | <i>Gower,</i> | <i>Tadcas</i> |
| <i>W. and Nottingham,</i> | <i>Ker,</i> | <i>Bristol.</i> |
| <i>County,</i> | | |

Die Veneris 23. Februarii, 1732.

Hodie 1^a vice lecta est Billa, entitled, An Act making more effectual the Laws in being for disqualifying Persons from being chosen Members of, or sitting in the House of Commons, who have any Office during Pleasure, or for any Number of Years, or Offices held in Trust for them.

After Debate, proposed to reject the Bill.

Moved to order, That the same be read a second time *on Tuesday next.*

| | | | |
|-----------|----|------|---|
| Contents | 25 | } 39 | After further Debate, the Q ^{ue} was put, whether the said B ^{ill} be read a second time? |
| Proxies | 14 | | |
| Not Cont. | 68 | } 82 | It was resolved in the Neg ^{ative} |
| Proxies | 14 | | |

Disputations

For the Reasons enter'd in the Journals of the House the 21st of March 1729, and the 2d of 1730.

Die Jovis 8^o Martii, 1732.

Hodie 3^a vice lecta est Billa, entitled, An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters.

After Debate, the Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient'

For the Reasons enter'd on the Journal last Session against the Number of Men then and now to be established; which Reasons we refer to, and think the Circumstances of Time now do by no means lessen the Force of them.

Bruce,

Montjoy,

Bathurst,

Masbam,

Oxford and Mortimer,

Strafford,

Litchfield,

Bristol,

Coventry,

Gower,

Northampton,

Foley,

Berkshire.

Die Mercurii 30^o Maii, 1733.

Moved to resolve, That it is the Opinion of this House, that the Produce of the Sinking Fund should be applied for the future towards redeeming such Taxes as are most grievous to the Subject, oppressive to the Manufacturer, and detrimental to Trade.

Which being objected to, and Debate had concerning the same.

The Question was put upon the said Motion?

And it was resolved in the Negative.

Dissentient'

1st, Because we conceive, that it would have been extremely for the Honour of the House, and for the Service of the Publick, to have enter'd this Resolution in our Books at a Time when we have so far consented, in Compliance with *the House of Commons*, to a Bill by which near half a Million, collected from the Sinking-Fund in several Years, is appropriated to the Service of the present Year.

2^{dly}, Because the Sinking Fund being composed of the Surplusses of Funds originally granted as Securities

to the Creditors of the Publick, and these Surpluses arising chiefly from a Reduction of Four *per Cent* the Interest granted them for the most part at the rate of Six *per Cent*. we cannot but think, that this ought to be applied, according to the most inviolable Rules of Equity, and according to the known Intent, and the repeated and solemn Engagements of Government, to a gradual Discharge of the Principal of these Creditors of the Publick, who have parted the Third of their Revenue in this View, and upon Confidence.

3dly, Because we apprehend, that the Method of paying large Proportions of the Sinking-Fund Service of the current Year must, in effect, perpetuate the Debts and Taxes which lie on the Nation, therefore injurious to the Publick. Had this Fund been strictly applied from the Beginning to its proper Use, we think it may be demonstrated, that that much more of the National Debt might have been discharged, but that those Taxes which are most oppressive to the Poor, and most prejudicial to the Nation, might have been already taken off, since upwards of 480,000 *l. per Ann.* belonging, as we conceive, to the Fund, has been applied to other Uses.

4thly, Because we apprehend, that it cannot be the Good of the Nation; nor consequently for the Honour of Parliament, to separate those Interests and particular Approbations of the Sinking-Fund, and were so wisely and so justly united in the original general Design of it, the Interest of the Nation, and the Interest of the Proprietors of the Nation's Debts: the former was intended to be eased, and for that purpose the latter were to be cleared as soon as possible: I said therefore, that the Creditors of the Publick desire to be cleared no faster than they are in the present Method, nor object to the Application of any Part of the Sinking-Fund to other Uses, we apprehend no Argument, which ought to avail in a House of Parliament, can result from such an Assertion; because we conceive, that in every Instance of this Kind, in the Application of the Sinking-Fund, or of any Part thereof, we are to look on ourselves as obliged not only to

to the Creditors of the Publick, but to be careful of the Ease of the People, to keep the particular and general Interests united, as they originally were, and not to sever them : If in fact, the Creditors of the Publick do not object to the Application of such large Proportions of the Sinking-Fund to other Uses than to the Payment of the Debts, it may be said, that no Injustice is done them by any such Application, according to the known Maxim, *Volenti non fit injuria* ; nay, it may be deemed for their private Interest to have such beneficial Mortgages continued to them as long as possible ; and they may desire therefore not to be cleared any faster than they are likely to be in the present Method : But we apprehend, that it cannot be for the Interest of the Nation to have these Mortgages continued any longer than is absolutely necessary to discharge the Debts secured by them ; and that we, by consequence, who are Trustees for the People, ought to desire and endeavour that the Debts may be discharged, and the Loan of Mortgages be removed as soon as possible. In this manner publick Faith would be strictly kept, Justice would be done, and no Injustice could be done to the Creditors of the Publick : In the other Method, and by diverting such large Portions of the Sinking-Fund, if it should be granted that no present Injustice was done to the Proprietors of the Publick Debts, yet it must be allowed, as we apprehend, that great Injury is done to the Nation, unless it can be proved that the unnecessary Continuation of Debts and Taxes is a National Benefit.

5thly, Because we conceive, that if the whole Produce of the Sinking-Fund were not to be applied to the Discharge of the Publick Debts, it would be much more for the Ease of Trade and Advantage of the Nation that some of those grievous Taxes out of which it arises should cease, than that they should be continued to supply the current Service at Four *per Cent.* which might certainly be supplied by other Ways at a cheaper Rate. These Taxes are not only grievous in themselves, almost intolerable, by the manner of collecting them under the Laws of Excise ; Laws so oppressive to Subject, and so dangerous to Liberty, that every Man who wishes well to his Country, must, in our Opin

desire to see them put to a speedy End. Most of Taxes were laid during the Necessity of two long expensive Wars, and were granted only for Tern Years, that so the Principal and Interest of the L made on them might be paid off in a certain lin Time: Thus the Nation consented to pay, in manner, a double Tax, in order to avoid the long uncertain Continuance of such grievous and dangerous Impositions; and, according to the first Design, of them would have been very near the Expiration their Term at this Hour. The Wisdom of Parlian indeed, thought fit afterwards to throw these Taxes the Method of discharging the Publick Debts, into their Form, which now subsists; but we cannot conceive that this was done with a View of continuing our T and our Debts the longer; on the contrary, we are sure, it was done in the View of discharging both sooner; and it is this very View which, we apprehend must be fatally disappointed, if the present Method diverting any Part of the Sinking-Fund from the payment of the Publick Debts be suffered to continue.

6thly, Because we apprehend, that this Method create the utmost Uneasiness in the Minds of his Majesty's Subjects, and may tend, if not timely prevented by the Wisdom and Authority of this House, to diminish their Affection for his Person and Government. Hitherto, whilst they have laboured under the Weight of Taxes, and groaned under the Oppression of Excessive Laws, the Hopes of seeing speedily an End of both have been their sole Consolation; but nothing can maintain this Hope; except a due Application of the entire Sinking-Fund to the Discharge of those Debts, for the payment of which these Taxes were intended and granted. If some Part of this Fund therefore continue to be mortgaged off, and other Parts to be applied to the support of the present Service, even in the midst of profound Peace, the Hope must sink, and Despair arise in its stead. We must insist with greater Concern and Earnestness on this Point from our Observation of what has lately passed on this Occasion of Attempts made to extend the cruel and arbitrary Methods passed under the Laws of Excise, and naturally and necessarily, as we apprehend, flow

from them : If any new Law of this kind had passed elsewhere, we persuade ourselves, it could not have prevailed in this House ; but we think it the more incumbent upon us, after such an Attempt, and such National Resentment expressed against it (both which are of publick Notoriety) to promote, as effectually as we are able, the Quiet and Happiness of his Majesty's Reign, by cutting off any Hopes or Fears which may be still entertained that such a Project will some time or other succeed ; and to this good and laudable End we conceive that nothing would have contributed more than such a solemn Declaration of the Sense of this House as is contained in the Question.

| | | |
|-----------------------------|---------------------|--------------------|
| <i>Bedford,</i> | <i>Shaftesbury,</i> | <i>Litchfield,</i> |
| <i>Craven,</i> | <i>Bridgewater,</i> | <i>Sunderland,</i> |
| <i>Gainborough,</i> | <i>Bruce,</i> | <i>Coventry,</i> |
| <i>W. & Nottingham,</i> | <i>Ker,</i> | <i>Carteret,</i> |
| <i>Strafford,</i> | <i>Masbam,</i> | <i>Batburſſ,</i> |
| <i>Gower,</i> | <i>Tbanet,</i> | <i>Tweedale.</i> |

Die Sabbati 2^o Junii, 1733.

The House being moved to appoint a select Committee to examine into the Proceedings of the *South-Sea Company*,

After Debate, the Question was put, whether a select Committee shall be appointed, of twelve Lords to be chose by Ballot, to examine into the Transactions and Proceedings of the *South-Sea Company* from the 2d Day of *February* 1720, and to lay their Report before this House ?

It was resolved in the Negative.

Dissentient'

1st, Because the present Debt of the Kingdom being almost wholly incorporated into the three great Companies, it behoves the Legislature, who are the proper Guardians of the Publick Creditors, to take all possible Care that they suffer no Injury in their Estates, by any Frauds committed in the Management of them ; for tho' the Directors are chosen by a general Court, they are invested with such extensive Powers, that they are capable, by abusing their Trust, of doing infinite Mischief

to the Proprietors, which their Proceedings are vigilantly watched and controlled by that supreme Authority under whose Sanction they act, and by which only such Practices can be effectually prevented or punished.

2dly, Because this House having been induced, by the Reasons before-mentioned, to begin an Inquiry into the Management of the South Sea Company, we apprehend that our Honour is engaged to answer those Expectations which the Publick had so justly conceived from it; and since the Advanced Season of the Year will not permit us to finish this Examination during the present Session of Parliament, we apprehend, a Committee was the only proper Way left to unravel such dark and intricate Affairs, which require a very nice Inspection into many voluminous Books; it appearing to us, by what we have seen and heard at our Ear, that the Accounts of the Company have been kept in a most confused, irregular and unwarrantable Manner, in order, as we apprehend, to conceal Frauds and defeat all Inquiries.

3dly, Because the great Distresses and Calamities in the Year 1720, having been occasioned by the Directors at that Time declaring such extravagant Dividends as the Company was not able to support, the Legislature have, in all their Acts relating to this Corporation, which have passed since that Time, taken the utmost Care to prohibit and restrain the Directors from being guilty of the like Practices; yet, notwithstanding this, they have been so far from taking Warning by the Examples made of their Predecessors, that it appears, by the Accounts laid before this House, that altho' by the Cash which came into their Hands, and by the Sale of four Millions of Stock to the Bank, and by the Loans of Stock and otherwise, they were sufficiently enabled to pay off the Debt of five Millions four hundred thousand Pounds then owing by the Company, as in Justice and Prudence they ought to have done; yet influenced, as we have Reason to believe, by the corrupt Views of some few, who may have assumed to themselves the whole Management of the Affairs of this Corporation, they left a great part of their Debt on Bonds at Interest paid; and by unwarrantable Dividends out of the Money,

Money, in order to give a fallacious Value to their Stock, Multitudes of his Majesty's Subjects have been defrauded ; and they have, without the Knowledge of the Proprietors, not only dissipated above two Millions three hundred thousand Pounds received from the Directors Estates, but they have, likewise brought a new Debt of two Millions upon the Company, and thereby diminished the Capital of every Proprietor's Stock ; by which means great Injury and Injustice have, in numerous Instances, been done to Orphans and the Reversionary Heirs of these Estates, to the great Dishonour of the Publick Faith, and Discredit of the Nation.

4^{thly}, Because, altho' the Directors applied to Parliament, in the Year 1727, for their Authority to dispose of the Produce of the Estates of the forfeiting Directors, pretended to be then remaining in their Hands ; yet it appears, by the Accounts now before us, that the greatest Part of this Money had been before actually divided out in extraordinary Dividends ; and when, in order to give some Colour to these Proceedings, they obtained an Act of Parliament to dispose of these Effects, they never called a General Court to acquaint them with the State of this Account, or to take their Directions for the Application of any remaining Part of these Estates, notwithstanding they were expressly required to do by the said Act.

5^{thly}, Because there is Reason to believe, from a general View of the same Accounts, that there are many Articles, hitherto unexamined, under which a multitude of Frauds may be concealed, such as buying, selling, creating, and issuing of Bonds ; employing irregularly the Cash of the Company which lay in their Hands, whilst the Proprietors were paying Interest for Money borrowed of the Bank ; transacting Stock abroad, and selling fictitious Stock at home, with many other Practices of the like Nature, too long and various to be particularly explained : For these Reasons, we conceive, it was absolutely necessary to have appointed a Committee, as the only Method to distinguish the few who probably are criminal, from many Gentlemen who may at present lie unjustly under the same Imputation, especially at a Time when a Bill was actually depending for
dividing

dividing the Capital of this Company, Three-f into Annuities, and leaving the remaining Quarter a Trading-Stock, with a large Debt and Demands it unliquidated, and the Value of it consequently known; which, should it pass into a Law, will, probability, promote and encourage the infamous tice of Stockjobbing, to the Ruin of great Num his Majesty's Subjects.

6thly, Because the other House have frequent pointed Commissioners to inspect the Publick Ac during the Interval of Parliament, as the only pr ble Method of arriving at any Knowledge in suc fairs; a Method, indeed, too much disused of Years: We therefore apprehend, that no just Obj either was or could be made to a Committee, wh perfectly agreeable to the Nature of our Constit cannot be of any Prejudice to the Company, and, confined to a particular Inquiry, can give no Grou Apprehension to any but those who are afraid it may to further Discoveries of iniquitous Contracts and c Bargains in the Settlement and Transactions of this pany since the Year 1720, which some Persons ha deavoured with so much Industry to conceal.

7thly, Because we think it highly expedient, a Time, to vindicate the Publick Faith of the Nation Foreigners should be induced, by the many Instan Fraud and Corruption which have been of late disc ed in other Corporations, suddenly to withdraw Effects out of our Funds, and thereby totally d Publick Credit, and plunge us into inextricable Di ties.

8thly, Because the Arts made use of to divert us our Duty, and to defeat this Inquiry, give us Reas prosecute it with fresh Vigour; for Impunity of (if any such there be) is the strongest Encourag to the Repetition of the same Practices in future I by chalking out a safe Method of committing the flagitious Frauds under the Protection of some c and all-screening Minister.

9thly, For these Reasons we think ourselves un dispensable Obligation to vindicate our own Ho by leaving our Testimonies in the Journals of this

it we are not under the Influence of any Man whatsoever, whose Safety may depend on the Protection of Fraud and Corruption, and that we enter'd upon this Inquiry with sincere and just Design of going to the Bottom of the vil, and applying to it the most proper and effectual Remedies.

| | | |
|-----------------------------|---------------------|----------------------|
| <i>Bedford,</i> | <i>Tweedale,</i> | <i>Chesterfield,</i> |
| <i>Strafford,</i> | <i>Cobham,</i> | <i>Carteret,</i> |
| <i>Batburst,</i> | <i>Coventry,</i> | <i>Berkshire,</i> |
| <i>Litchfield,</i> | <i>Stair,</i> | <i>Bruce,</i> |
| <i>Suffolk,</i> | <i>Montrose,</i> | <i>Marchmont,</i> |
| <i>Shaftesbury,</i> | <i>Bridgewater,</i> | <i>Masbam,</i> |
| <i>W. & Nottingham,</i> | <i>Thanet,</i> | <i>Gower.</i> |
| <i>Craven,</i> | | |

Die Mercurii 13^o Februarii. 1733,

The Duke of *Marlborough* presented to the House a Bill entitled, *An Act for the better securing the Constitution, by preventing the Officers of such Land Forces as shall at any time be allowed by Authority of Parliament, from being deprived of their Commissions, otherwise than by Judgment of a Court-Martial to be held for that Purpose, or by Address of either House of Parliament.*

And the same was read.

Moved to order, That the said Bill be read a second Time on *Tuesday* next.

Which being objected to, and it being also moved to reject the said Bill,

| | | |
|---------------------|-------|-------------------------------------|
| Contents 49 | } 62 | After Debate, |
| Proxies 13 | | The Question was put upon the first |
| NotCont. 78 | } 100 | Motion? And |
| Proxies 22 | | It was resolved in the Negative, |
| <i>Dissentient'</i> | | |

1st, Because the Exigence of Affairs in times past, or Complaisance of former Parliaments, have for several Years occasioned the keeping up a considerable Body of Land Forces in this Kingdom; and as various Events may happen to oblige future Parliaments to pursue the same Measures, which nothing but the utmost Necessity can justify, they being repugnant to the Nature of our Constitution, and dangerous to the Liberties of a free People; and as the whole Disposition of the said Force

is absolutely in the Crown, we cannot but think it highly reasonable, when so great an Increase of Power and Influence, which was formerly occasional and rare, comes to be annually vested, and constantly exercised by the Crown, that some such Limitations as proposed by this Bill are not only proper but necessary; and we are confirmed in that Opinion, by the Doctrine so often and so strongly laid down in this House, that the greatest Danger to this Nation, from a standing Military Force, must arise from the Abuse of the Power which now subsists of cashiering Officers, without any Crime proved or alledged, and of garbling the Army at Pleasure; and we heartily wish that nothing had since happen'd to put us in mind of that Doctrine.

2dly, Because the employing or removing of all General Officers would have been left in the Crown, if this Bill had passed into a Law; for the enacting Clauses were only to this Purpose, (That no Colonel or other Officer of inferior Degree, having his Commission from the Crown, shall be cashiered or removed other than to an higher Post, or discharged from his Commission, or be deprived of the Pay belonging to the same, in any other Manner than by a Court-Martial to be appointed by a Commission under his Majesty's Sign Manual to any Officer not under the Degree of a Field-Officer.) At the same Time there is a Provision in the Bill, (That nothing shall extend to prevent his Majesty or his Successors from disbanding, breaking or reducing all or any of the Regiments, Troops or Companies now in Being, or which shall or may be raised hereafter); and it is further provided, (That his Majesty and his Successors may remove any Officer upon an Address of either House of Parliament.) We conceive therefore, that, as those Posts would still have remained, upon all Vacancies, in the sole Disposal of his Majesty, and the Persons now possessing them are liable to be removed for any Breach or Neglect of their Duty, by a Court-Martial, or by Address of either House of Parliament, the Prerogative of the Crown would no otherwise be abridged or altered than it has been on many other Occasions, particularly in that Instance of making the Judges to hold their Place, *Quomodo si bene gesserint*, which was formerly dur-

Pleasure only; which Alteration has been always proved, and, we hope, will in no time to come ever attempted to be repealed.

3dly, Because the Practice of all the Nations in Europe, even where the Government is most Arbitrary, justifies the Intention of this Bill; for no Instance can be reduced in any other Kingdom or State (as we believe) where Officers are cashiered or deprived of their Commissions, otherwise than by the Judgment of a Court-Martial: How much stronger Reason then have we of this Nation to establish such a Rule, since our Officers are, many of them, in a Capacity of having a Share in the Legislature, where it is absolutely necessary for the Preservation of the Constitution, that every Member should be free and independent, and more particularly at this Time, when we find the Number of Officers having Seats in Parliament far greater than it ever was in Time of War, when above three Times the Number of the present Troops were kept on Foot.

4thly, Although it was objected in the Debate, That in Time of Danger (upon Suspicion of traiterous Practices) it might be necessary to remove an Officer from his Post, though the Informations might not be ready to be produced, or proper to be laid before a Court-Martial, and yet by such Officer's continuing in his Post, great Mischief might accrue to the Publick; we apprehend that Objection received a full Answer, That in such a Case an Officer might be immediately put under Arrest, or sent to some other Post where he could not be dangerous. And, we conceive, such a Method of Proceeding will always be thought most proper where the Crime is only suspected, but not capable of legal Proof; for it must be allowed as unjust to condemn a Man upon Suspicion only, as it would be unreasonable to let a Man continue in Power who is justly under Suspicion. That Part of the Prerogative, which will be always esteemed the brightest Jewel of the Crown, the Power of conferring Grace and Favour, would have remained entire, had this Bill passed into a Law; and only the disagreeable Part of inflicting Punishments was designed to be limited, or rather secured by this Bill, from being turned to any ill Use, by the private Whispers of some malicious or

vindictive Minister, who may at any Time hereafter get Possession of the Royal Ear.

5thly, Because, the Time for the new Elections drawing near, we look upon this as the most favourable Opportunity of passing so necessary a Bill, since hereafter the very great Increase which may probably happen of the Number of Officers in Parliament may render the future passing of such a Bill totally impracticable; for while the Officers of the Army remain in their present precarious Situation, they may be intimidated, by the Threats of an unforgiving Minister, from voting even for a Bill of this Nature, and choose to purchase present Security at the Price of their own Interests and their own future Independence in Parliament, in which the Liberties of their Country are so much concerned.

6thly, Because we conceive the small Degree of Independence proposed to be given to the Officers of the Army, by this Bill, to be necessary to prevent their being exposed to Temptations, in which (though we are ready to do Justice to the Sentiments of Honour and Virtue in those Gentlemen) we should rather lament than wonder to find a discouraged and indigent Virtue yield to a criminal but prosperous Compliance; especially should we have the Misfortune to see an Imperious, All-grasping and Power-engrossing Minister, who may make their political Submission to his oppressive and destructive Schemes, the only Test of their Merit, and the only Tenure of their Commissions.

| | | |
|-------------------------------|---------------------|-------------------------------|
| <i>W.a. & Nottingham,</i> | <i>Bruce,</i> | <i>Scarsdale,</i> |
| <i>Warrington,</i> | <i>Suffolk,</i> | <i>Bedford,</i> |
| <i>Bridgewater,</i> | <i>Marlborough,</i> | <i>Belton,</i> |
| <i>Berkshire,</i> | <i>Denbigh,</i> | <i>Craven,</i> |
| <i>Montrose,</i> | <i>Carteret,</i> | <i>Oxford & Mortimer,</i> |
| <i>Marchmont,</i> | <i>Cobham,</i> | <i>Tadcaster,</i> |
| <i>Clinton,</i> | <i>Strafford,</i> | <i>Boyle,</i> |
| <i>Masham,</i> | <i>Weymouth,</i> | <i>Litchfield,</i> |
| <i>Fawcedale,</i> | <i>Foley,</i> | <i>Cardigan,</i> |
| <i>Chesterfield,</i> | <i>Griffin,</i> | <i>Gower,</i> |
| <i>Bathurst,</i> | <i>Ker,</i> | <i>Willoughby de Brooks.</i> |

Then the Question was put, whether the aforementioned Bill shall be rejected?

It was resolved in the Affirmative.

Moved,

Moved; That an humble Address be presented to his Majesty, to desire that he will be graciously pleased to acquaint this House, who advised his Majesty to remove the Duke of *Bolton* and the Lord Viscount *Cobham* from their respective Regiments, and what Crimes were laid to their Charge.

And the same was likewise objected to.

Contents 48 After further Debate, the Question was
NotCont. 77 put thereupon?

It was resolved in the Negative.

Dissentient,

1st, Because we conceive, that it is the inherent Right of this House to address the Crown, to be informed who are the Advisers of any Measures that may be prejudicial to his Majesty's Government, or dangerous to the Liberties of the Nation.

2^{dly}, Because the Removal of two Officers of such Rank and Dignity, and of such known Fidelity to his Majesty's Person and Government, without any Cause assigned, or any known or alledged Neglect of their Duty, gave the greatest Alarm to many of his Majesty's most faithful Subjects; we therefore thought it for his Majesty's Service to give him this Occasion to publish to the World the just Grounds of his Displeasure, or to detect the Calumny of their Accusers, and consequently to withdraw his Confidence from such pernicious Counsellors.

3^{dly}, Because that, as the Practice of displacing Officers has grown more frequent in Proportion to the Increase of their Numbers in both Houses of Parliament, the World may entertain (however unjustly) an Opinion that the free Use of their Votes has been the real Cause of their Disgrace; and the more so, since most of the Persons who have been removed have happen'd to be Members of one or other House of Parliament.

4^{thly}, Because Applications of this Nature to the Crown may hereafter protect many of his Majesty's faithful Subjects from the secret and malicious Representations of some Minister in future Times, who though unrestrained by Sense of Truth, regardless of his Prince's real Interest, and animated only by his own Passions, may however be checked by the just Apprehensions, that

the Applications of Parliament may lay open his Calumnies, and bring upon himself the Disgrace he had prepared for others.

| | | |
|-------------------------------|---------------------|-----------------------------|
| <i>W. & Nottingham,</i> | <i>Bruce,</i> | <i>Bathurst,</i> |
| <i>Berkshire,</i> | <i>Denbigh,</i> | <i>Suffolk,</i> |
| <i>Craven,</i> | <i>Anglesey,</i> | <i>Scarsdale,</i> |
| <i>Marlborough,</i> | <i>Bridgewater,</i> | <i>Montjoy,</i> |
| <i>Montrose,</i> | <i>Tadcaster,</i> | <i>Ker,</i> |
| <i>Chesterfield,</i> | <i>Cardigan,</i> | <i>Bedford,</i> |
| <i>Boyle,</i> | <i>Abingdon,</i> | <i>Northampton,</i> |
| <i>Oxford & Mortimer,</i> | <i>Masbam,</i> | <i>Strafford,</i> |
| <i>Warrington,</i> | <i>Foley,</i> | <i>Griffin,</i> |
| <i>Bristol,</i> | <i>Gower,</i> | <i>Weymouth,</i> |
| <i>Tweeddale,</i> | <i>Litchfield,</i> | <i>Marchmont,</i> |
| <i>Clinton,</i> | <i>Carteret,</i> | <i>Willoughby de Broke.</i> |

Dissentient

Because we are not conscious, that any Neglect or Breach of our Duty can be laid to our Charge, much less any Want of Zeal and Attachment for his Majesty's Person and Government; we therefore must testify our earnest Desire, that this Motion had passed in the Affirmative, that we might have had an Opportunity given us of knowing our supposed Crimes and Accusers, and, we hope, of justifying ourselves to his Majesty and the World.

Bolton,

Cobham.

Die Mercurii 6^o Martii, 1733.

The Order of the Day being read for the House to take into Consideration Matters relating to the Election of the Peers of that Part of *Great-Britain* called *Scotland*.

Moved to resolve, That no Peer who hath claimed, or shall claim Right by Succession to any Peerage of *Scotland*, other than a Descendant of the Body of a Peer or Peers, who has been in the Possession of the Peerage claimed since the 25th of *April*, 1690, shall be admitted to vote at any Election of a Peer or Peers to sit in Parliament for that Part of *Great-Britain* called *Scotland*, until his Right and Title be claimed and determined in this House.

After

After Debate, ordered, That on *Monday* next this House shall be put into a Committee of the whole House, to take into Consideration Matters relating to the Election of the Peers of that Part of *Great-Britain* called *Scotland*.

Then it was moved to resolve, for the better securing the Freedom of the Election of a Peer or Peers to sit in Parliament of *Great-Britain* on the Part of *Scotland*, That the Election shall be by way of Ballot.

And a Question being stated thereupon,

| | | | |
|----------|----|------|------------------------------------|
| Contents | 49 | } 63 | After further Debate, |
| Proxies | 18 | | The Question was put upon the said |
| Not Cont | 75 | } 96 | Motion? And |
| Proxies | 21 | | It was resolved in the Negative. |

Dissentient

1st, Because this Motion tending only to make a Variation in the Manner of electing the Peers for *Scotland*, we apprehend it is entirely agreeable to the Intention of the 22d Article of the *Union*; for whatever can contribute to make the Election more free and independent, the more it answers the Design of that Article; and we must observe, that this House has been so far from thinking the Manner of Election unalterable, that a Bill passed this House, by which the Election itself was entirely abolished.

2^{dly}, Because in an Election of this Nature, the Method of voting by Ballot appears to us infinitely preferable on many Accounts; for as, it is well known, there are several Alliances amongst that Body of Nobility, many of the Peers may be put under great Difficulties, their Alliances drawing them one Way, and their Opinion and Inclination another Way: It is also possible, that by Pensions from the Crown, or by Civil or Military Preferments, some of them may lie under Obligations to a Court, and be reduced to the hard Necessity (under the Power of an Arbitrary Minister) either of losing their Employments, or of voting against their nearest Relations and their own Opinions also: We apprehend that no Election can be called perfectly free, where any Number of the Electors are under any Influence whatsoever, by which they may be biassed in the Freedom of their Choice.

3dly, Because we apprehend that this House is, in a most essential Manner, concerned in the Freedom of this Election; for if sixteen new Members are to be brought in every new Parliament, under any undue Influence, it may tend to subvert the Independence of this House, and of consequence the Constitution of the whole Kingdom; by means of such an Election, an ambitious Minister may make use of the Power of the Crown, at one Time, to destroy the Interest of the Crown; at another, to oppress the Liberty of his Fellow-Subjects; and, by different Turns, protect himself from the just Resentment of both.

4thly, As this House is the highest Court of Judicature, and the last Resort in all Matters relating to the Properties of the Subjects of *Great-Britain* and *Ireland*, we conceive, that every Person, who is Master of any Property, is concerned in the Consequence of this Motion; for if sixteen of these Members, in whose Hands this great Trust is vested, should ever be thought to be in the Nomination of a Minister, the Subjects of these Kingdoms may have great Reason to dread the Consequence of such unwarrantable Influence, by which their Liberties, Lives and Properties might be render'd precarious,

| | | |
|------------------------------|--------------------|-------------------------------|
| <i>Marlborough,</i> | <i>Boyle,</i> | <i>Coventry,</i> |
| <i>Bedford,</i> | <i>Strafford,</i> | <i>Bruce,</i> |
| <i>Carteret,</i> | <i>Cardigan,</i> | <i>Ker,</i> |
| <i>Weymouth,</i> | <i>Bolton,</i> | <i>W. & Nottingham,</i> |
| <i>Cobham,</i> | <i>Flaversham,</i> | <i>Berkshire,</i> |
| <i>Chesterfield,</i> | <i>Marchmont,</i> | <i>Oxford & Mortimer.</i> |
| <i>Clinton,</i> | <i>Aylesford,</i> | <i>Bathurst,</i> |
| <i>Montjoy,</i> | <i>Warrington,</i> | <i>Bristol,</i> |
| <i>Tweedale,</i> | <i>Stair,</i> | <i>Foley,</i> |
| <i>Northampton,</i> | <i>Denbigh,</i> | <i>Tadcaster,</i> |
| <i>Montrose,</i> | <i>Gower,</i> | <i>Litchfield.</i> |
| <i>Willoughby de Brooke,</i> | | |

Die Lune 18^o Martii, 1733.

The Order of the Day being read for the taking into Consideration Matters relating to the Election of the Peers of that Part of *Great-Britain* called *Scotland*.

It was moved to resolve, That it is the Opinion of this House, that any Person or Persons taking upon him or them to engage any Peers of *Scotland*, by Threats, Promise of Place or Pension, or any Reward or Gratuity whatsoever from the Crown, to vote for any Peer or List of Peers to represent the Peerage of *Scotland* in Parliament, is an high Insult on the Justice of the Crown, an Incroachment on the Freedom of Elections, and highly injurious to the Honour of the Peerage.

And a Question being stated thereupon,

After Debate, it was moved to put the previous Question.

Contents 83 } 60

Proxies 17 }

Not Cont. 73 }

Proxies 26 } 99

And after further Debate, the previous Question was put, whether the said stated Question shall be now put ? And

It was resolved in the Negative.

Dissentient

1st, Because we apprehend, that this Resolution, being only declaratory of undeniable Truths, ought not to have been avoided by a previous Question, since, we fear, the leaving it undetermined may tend to encourage Practices dangerous to our Constitution in general, and to the Honour and Dignity of this House in particular.

2^{dly}, Because we think, this House cannot shew too strong an Abhorrence of Practices which, whether they have been committed or not in former Elections, are yet of such a Nature as may possibly be attempted hereafter by a Minister, who may find it necessary to try all the Methods to secure a Majority in this House, either to promote his future ambitious Views, or to screen his past criminal Conduct.

Suffolk,

Marchmont,

Shaftsbury,

Gower,

Wa. & Nottingham,

Bedford,

Ker,

Bristol,

Tadcaster,

Cardigan,

Foley,

Litchfield,

Tweedale

Abingdon,

Stratford,

Bathurst,

Tbanet,

Stair,

Aylesford,

Cobham,

Bruce,

Oxford & Mortimer.

Montrose,

Crawen,

Bolton,

Belton, Coventry, Northampton,
 Carteret, Berkshire, Griffin,
 Chesterfield, Marlborough, Willoughby de Broke,

Die Martis 26^o Martii, 1734.

The House was moved, That the Select Committee appointed the seventh Instant to consider of the Representation of the Commissioners for Trade and Plantations relating to the Laws made, Manufactures set up, and Trade carried on in any of his Majesty's Colonies and Plantations in *America*, which may have affected the Trade, Navigation and Manufactures of this Kingdom, be empower'd to inquire of the proper Methods for the Encouragement and Security of all Trade and Manufactures in the said Plantations, which no way interfere with the Trade of *Great-Britain*, and for the better Security of the Plantations themselves.

And a Question being stated thereupon,

It was propos'd after the Word [Encouragement] to leave out [and Security.]

Which being objected to, and Debate had thereupon,

Contents 28 The Question was put, whether the
 Not Cont. 52 Words [and Security] shall stand
 Part of the Question.

It was resolv'd in the Negative.

Then it was propos'd, That these Words at the latter End of the Motion, *viz.* [and for the better Security of the Plantations themselves] be left out.

But the same being objected to,

The Question was put, whether these Words shall stand Part of the Question? And

It was resolv'd in the Negative.

Dissentiens'

Because we apprehend, that if the Safety of the Plantations themselves is not thought a Matter worthy the Consideration of the Parliament, it is of little Consequence to consider of their Laws, Manufactures or Trade.

Bedford, Berkshire, Strafford,
 Bristol, Litchfield, Abingdon,
 W. & Nottingham, Aylesford, Carteret,
 Bathurst,

| | | |
|---------------------|------------------|-------------------|
| <i>Batburſt,</i> | <i>Montroſe,</i> | <i>Stair,</i> |
| <i>Tadcaſter,</i> | <i>Tweedale,</i> | <i>Marchmont,</i> |
| <i>Bolton,</i> | <i>Thanet,</i> | <i>Coventry,</i> |
| <i>Northampton,</i> | <i>Gower,</i> | <i>Cardigan.</i> |
| <i>Craſſen,</i> | | |

Then the Queſtion was put, whether the ſaid Committee ſhall be impowered to inquire of the proper Methods for the Encouragement of all Trade and Manufactures of the Plantations in *America*, which no Way interferes with the Trade of *Great Britain*, or which may be of Uſe to *Great Britain*?

And It was reſolv'd in the Negative.

Different

1^{ſt}, Becauſe we apprehend, that the new Powers propoſed to be given to the Committee, were not only expedient, but abſolutely neceſſary, ſince by the Account given by ſeveral Lords who attended the Committee (and contradicted by none) it appear'd to the Houſe, That from the Informations of Merchants of undoubted Credit, *Jamaica*, *Barbadoes*, and the *Leeward Iſlands* were in ſo defenceleſs a Condition, that they might be taken in four and twenty Hours; and we conceive, that ſuch imminent Danger of ſuch valuable Poſſeſſions required an immediate and minute Examination, in Order to diſcover the Cauſes and Nature of the Danger, and to apply proper and adequate Remedies.

2^{dly}, Becauſe we conceive, that the chief Reaſon urged in the Debate, againſt this Inquiry, is the ſtrongeſt Argument imaginable for it, *viz.* That it might diſcover the Weakneſs of thoſe Iſlands in the preſent critical Juncture, and invite our Enemies to invade them; whereas we think that this critical Juncture calls upon us to put our Poſſeſſions in a State of Defence and Security in all Events; and ſince we cannot ſuppoſe their preſent defenceleſs Condition is unknown to thoſe Powers who are the moſt likely to take the Advantage of it, we apprehend it to be both prudent and neceſſary, that thoſe Powers ſhould at the ſame Time know, that the Care and Attention of this Houſe was employed in providing for their Security. We likewiſe conceive, that ſuch an Argument may tend to debar a Houſe of Parliament from looking into any of our Affairs, either Foreign or Do-

messic, if in any Transaction, at any Time, there shall appear to have been a weak, negligent or treacherous Management, the Directors will never fail to lay hold of that Argument to stop any parliamentary Inquiry, and the Fear of discovering a national Weakness may be urged only to prevent the Detection of ministerial Negligence or Guilt.

3dly, Because we have found by Experience, that we can never be too attentive to the Preservation of the Possessions and Dependencies of this Kingdom, since Treaties alone will not bind those Powers, who, from the Proximity of their Situation, from favourable Opportunities, or other Inducements, may be tempted to attack or invade them; but the Interposition of a *British* Parliament will be more respected and more effectual than the occasional Expedients of fluctuating and variable Negotiations, which in former Times have been often more adapted to the present Necessities of the Ministers than to the real Honour and lasting Security of the Nation.

4thly, Because, we apprehend, the debarring this House from any Inquiry into the Conduct of Ministers for the Time past, or from giving their Advice in Matters of great Concern to the Public for the Time to come, tends to destroy the very Being of this House, and of Consequence the whole Frame of our Constitution; and how melancholly a View must it be to all his Majesty's Subjects to see the private Property of so many Particulars, and so advantageous a Trade to the Whole, refused to be brought under the Inspection of this House; and yet (as far as it appears to us) totally neglected by the Administration! And we are the more surprised to find this Backwardness with Regard to the Interest of our Colonies, since we are persuaded that the Ballance of Trade at present is against us in all Parts of the World, and only compensated in some Degree by what we gain by our *West-India* Trade; neither can we allow that they ought to be left to look after themselves, since they have a Right to claim even more than the Protection of their Mother Country by the Wealth they annually transmit to it, and the great Duties they pay, to the Increase of the publick Funds and of the Civil-List; and we are fully convinced, that
if

if this beneficial Trade should once be lost, it will be irrecoverably lost, to the infinite Damage of this Kingdom; for though the Islands should be restored to us afterwards, the Utenils and Stock of Negroes being carried away, it would take up a long Tract of Time, and would be a very great Expence to the Public, to reinstate them in their present Condition; we rather think it impracticable to restore them, though we can by no Means suppose it difficult, by timely Precautions, to prevent their Destruction.

| | | |
|----------------------|--------------------|-----------------------------|
| <i>Chesterfield,</i> | <i>Strafford,</i> | <i>Gower,</i> |
| <i>Bedford,</i> | <i>Litchfield,</i> | <i>W.a. and Nottingham,</i> |
| <i>Berkshire,</i> | <i>Tbanet,</i> | <i>Montrose,</i> |
| <i>Tadcaster,</i> | <i>Tweedale,</i> | <i>Marchmont,</i> |
| <i>Northampton,</i> | <i>Carteret,</i> | <i>Stair,</i> |
| <i>Bathurst,</i> | <i>Bolton,</i> | <i>Abingdon,</i> |
| <i>Coventry,</i> | <i>Cardigan,</i> | <i>Crauen.</i> |
| <i>Brisol,</i> | <i>Foley,</i> | |

Die Veneris 29° Martii, 1734.

The Order of the Day being read for taking into Consideration his Majesty's most gracious Message delivered to this House Yesterday,

It was moved to resolve, That an humble Address be presented to his Majesty, to express the dutiful and grateful Sense which this House conceives of his Royal Care and Attention for the Honour and Security of his Kingdoms; to declare their unalterable Fidelity to his Majesty, and their earnest Desire, that his Endeavours for an Accommodation may be effectual; and that his Majesty may in all Events be in a Condition to make good such Engagements as Honour, Justice and Prudence may call upon him to fulfil or contract; and that his Dominions may not be exposed to any desperate Attempts especially at a Time when it may be impossible for the great Council of the Nation to be immediately convened; to give his Majesty the strongest Assurances, that this House will cheerfully support him in making such further Augmentation of his Forces, either by Sea or Land, as shall be necessary for the Honour and Defence of his Kingdoms, and in concerting such Measures as the Exigency of Affairs may require; and to return his Majesty the Thanks

of this House for his gracious Declaration, that an Account of any Augmentations made and Services performed shall be laid before the next Parliament: This House reposing an entire Confidence in his Majesty's Royal Wisdom and paternal Concern for the true Interests of his People.

Which being objected to, after long Debate thereon,
 Consents 76 } 101 The Question was put, whether
 Proxies 25 } such an Address shall be presented
 Not Cont. 35 } to his Majesty?
 Proxies 19 } 58 It was resolved in the Affirmative.

Disputations

Because we are of Opinion, that no free People should, on any Occasion whatever, vest in any Person an unlimited Power for an indefinite Time, and whenever they do, they at the same Time resign the Liberty.

| | | |
|-------------------------------|---------------------|------------------------------|
| <i>Abington,</i> | <i>Aylesbury,</i> | <i>Chislerfield,</i> |
| <i>Bristol,</i> | <i>Shaftesbury,</i> | <i>Boyle,</i> |
| <i>Northampton,</i> | <i>Foley,</i> | <i>Bedford,</i> |
| <i>Monmouth,</i> | <i>Marchmont,</i> | <i>Litchfield,</i> |
| <i>Colchester,</i> | <i>Bathurst,</i> | <i>Carteret,</i> |
| <i>Stretford,</i> | <i>Graben,</i> | <i>Stair,</i> |
| <i>Wymond,</i> | <i>Burlington,</i> | <i>Willoughby de Broke,</i> |
| <i>Ker,</i> | <i>Cardigan,</i> | <i>Gower,</i> |
| <i>Ex-shire,</i> | <i>Cowdry,</i> | <i>Montjoy,</i> |
| <i>Trent,</i> | <i>Tweedale,</i> | <i>Craven,</i> |
| <i>Oxford & Mortimer,</i> | <i>Clinton,</i> | <i>Wa, & Nottingham.</i> |

Disputations

1st, Because we conceive, an Address of this Kind, empowering the Crown to raise Men and Money, without specifying the Number or the Sum, is unwarranted by any Precedent, and is of the most dangerous Consequence; for it seems to us totally to subvert the very Foundation of our Constitution, the Wisdom of our Ancestors having provided many regular Steps and solemn Forms for granting Supplies to the Crown; Whereas this new Method of a sudden Address, upon a Message, at once frustrates and eludes all those wise and ancient Precautions.

2^{dly}, Because the History of several Countries, formerly free, furnishes us with many fatal Examples of the Abuse

Abuse of such unlimited Powers, whenever the Estates of those Countries have transferred the legislative Authority of raising Money from themselves, by an ill placed Confidence, into the Hands of a few; the Cortes of *Spain*, by trusting the Power of raising Money without their being assembled, though but for one Year; and the Estates of *France*, by allowing the Aids for the Defence of that Kingdom to be raised for three or four Years together, without their being summoned to meet; have never been able to retrieve their ancient Liberties and Constitution; but by the weak Compliance with such a fatal Measure were the unhappy Instruments of rendering themselves useless, and of enslaving their respective Countries.

3dly, Because though we have all possible Confidence in his Majesty's Wisdom and Justice, and all imaginable Zeal to the Honour and Support of his Person and Government, we cannot approve of a Message which, we are persuaded, was both formed and advised by the same Ministers, in whom those extensive and discretionary Powers are lodged by this Address; and we see no Reason, from any Experience of their past Oeconomy, to trust them with the arbitrary Disposal of an unlimited Sum, and as little Reason, from the Success of their former Alliances, to give any Approbation to past Treaties, which have never been communicated to this House, or a previous Sanction of any future Treaties they shall contract; especially since, by the Multiplicity of Negotiations, they have involved the Nation in Engagements with divers foreign Powers, inconsistent (as we conceive) with one another, and in so great a Variety, we can by no Means be sure that the best will be singled out to be fulfilled,

4thly, Because the present unfortunate Situation of the Affairs of *Europe* cannot be represented as unforeseen or unexpected, since from the gradual Progress of our Negotiations for some Years last past, the gradual Increase of the Disorders and Confusion in *Europe* has constantly been foretold: We therefore conceive, that had there not been some secret Reason for proceeding in this Manner (which Reason we will rather pass over in Silence, than attempt to point out) the necessary Demands of
Men

Men and Money would have been laid before the Parliament at the Beginning of the Session, according to the ancient and regular Usage; and which would as certainly have been granted by a Parliament which has distinguished itself by a remarkable Zeal, Duty and Liberality to the Throne.

5thly, We cannot think it prudent, in order to extricate ourselves out of our present Difficulties, to lodge these unlimited and (as we apprehend) dangerous Powers in the Hands of those very Persons, under whose Management and Conduct these Difficulties have been brought upon us: If (as we conceive) the National Debts are hardly lessen'd by more than twenty Years Peace; if our successive Fleets have proved a Terror to no Nation, and but only a Burthen to our owa; if our great Armies have disturbed the Minds of none but his Majesty's own Subjects, this extensive Power of raising Money, Fleets and Armies seems to us improperly intrusted in the Hands of those Ministers who have made no better Use of the Confidence already reposed in them.

6thly, We would, with the utmost Zeal, concur in whatever might increase to his Majesty the Affections of his People at home, or the Respect of his Neighbours abroad; but this Zeal without Knowledge, we think, can tend to neither of those desirable Ends, but on the Contrary, rather bring Contempt (as we apprehend) upon the too easy and implicit Faith of Parliaments, than add Weight and Dignity to those Powers we lodge, without any visible Reason, in the Hands of the Ministers.

| | | |
|----------------------|-------------|-------------------|
| Gower, | Litchfield, | Bathurst, |
| Chesterfield, | Boyle, | Foley, |
| Bristol, | Grabam, | Wa. & Nottingham, |
| Tweedale, | Stair, | Shaftesbury, |
| Northampton, | Clinton, | Berkshire, |
| Cobham, | Thames, | Craven, |
| Oxford & Mortimer, | Aylesford, | Montrose, |
| Bedford, | Marchmont, | Strafford, |
| Carteret, | Ker, | Coventry, |
| Montjoy, | Cardigan, | Weymouth, |
| Willoughby de Broke, | | |

Die Jovis 11^o Aprilis, 1734.

Hodie 2^a vice lecta est Billa, entitled, An Act for enabling his Majesty to apply the Sum of one Million two hundred Thousand Pounds out of the Sinking-Fund for the Service of the Year 1734, and for appropriating the Supplies granted in this Session of Parliament.

Proposed to commit the Bill, which being objected to,
And long Debate had thereon,

| | | | | |
|-----------|----|---|----|---|
| Contents | 64 | } | 94 | The Question was put, whether this Bill shall be committed? |
| Proxies | 30 | | | |
| Not Cont. | 32 | } | 51 | It was resolved in the Affirmative. |
| Proxies | 19 | | | |

Dissentient.

1st, Because the taking away, in this Manner, the whole Produce of the Sinking-Fund has a Tendency, as we apprehend, to the Destruction of parliamentary Credit and national Faith, and is more dangerous in its Consequences, as it is founded upon a Doctrine newly laid down, That the Proprietors of all the Debts, subscribed to the *South-Sea* Company, have no Right to their principal Money, but only to an Annuity of Four *per Cent*. and if this Opinion should be thought to be countenanced by Parliament in passing this Bill, we are apprehensive, that the Effects of it may be too soon and severely felt, especially since the said Proprietors have found, by Experience, that they have been paid off when their Annuities or Stocks were above *Par*; and the Sinking-Fund is now diverted, when, as we apprehend, the said Stocks and Annuities are likely to fall considerably under *Par*.

2^{dly}, Because we look upon this Proceeding to be contrary to the Contract understood to have been made between the Public and those Creditors who consented to the Reduction of their Interest, in Confidence that their Principal and remaining Interest would thereby be better secured: In Pursuance of which, an Act of Parliament was made in the third Year of his late Majesty's Reign, whereby it is enacted, " That the Monies to arise from
" Time to Time by certain Surplusses, Excesses, and
" Overplus-Monies, therein specified (which are commonly called the Sinking-Fund) shall be appropriated

“ for discharging the Principal and Interest of such national Debts and Incumbrances as were incurred before the 25th Day of *December* 1716, and were declared to be national Debts, and were provided for by Act of Parliament, in such Manner and Form as should be directed or appointed by any future Act or Acts of Parliament.” And the said Act of Parliament is confirmed by another Act made in the sixth Year of his late Majesty, which (after reciting that the said Overplus-Money will be greatly increased, as it was from the 24th of *June* 1727) applies the said Overplus-Monies as they stood appropriated by the former Act; and likewise establishes a Contract between the Public, and every individual Creditor of the Public that subscribed to the *South-Sea* Company, that the said subscribing Creditors shall have a perpetual Annuity of Four *per Cent.* from the Year 1727, until they should be paid off; and then applies the Sinking-Fund, so increased, to pay such Debts as were contracted before the 25th of *December* 1716, and declared to be national Debts, and provided for by Act of Parliament; which, if it is pursued, will be the most effectual Means (as it is the strongest Stipulation that can be made) for paying off the national Debt: And these Appropriations in the said Acts were manifestly made to prevent the Application of the Sinking-Fund to the current Service of the Year, or to the Payment of Debts incurred since the Year 1716; which, like the present Navy-Debt, may have lain dormant as long as they could possibly be concealed, and been occasioned by Ministers who may have run the Nation into larger Expences every Year than they thought for their Interest to demand from Parliament; we apprehend the greater Danger from this Proceeding, by considering the Steps which have been taken before it came to this Point: At first some Surplusses were distinguished out of the Sinking-Fund; and Supplies for the current Service of the Year raised upon them; then a Sum of five hundred Thousand Pounds, being Surplusses of the said Fund over the Million which had been annually paid off, was applied last Year in the same Manner: Now the Whole is taken at once, and we may justly suspect, that the next Attempt will be to mortgage the Sinking-Fund, the

Con-

Consequence of which will inevitably be, as we conceive, a total Destruction of parliamentary Credit, and introduce a Necessity of taxing the Funds: The next Step is more easy to be foreseen than proper to be expressed.

3dly, Because the appropriating Clause in this Act is, in effect, an Unappropriation of all the Money that has been raised this Year, and puts it in the Power of a Minister to divert any of the Supplies to whatever Purposes he shall think fit; and this in consequence only of an unprecedented Message from the Crown, specifying neither the Dangers apprehended nor the Services proposed; whereas appropriating Clauses were introduced to prevent the secret ill Use of Public Money, and every Tendency of breaking through them is a just Foundation for parliamentary Jealousy and Inquiry; and therefore we apprehend, that we cannot answer it to the Nation, if we should acquiesce when such Innovations are attempted.

4thly, Because this new Method of unappropriating Money raised for particular Uses frustrates and eludes the Wisdom and Caution of Parliaments, in the original Grant of those Monies, which is always in consequence of Estimates laid before the other House, and for Services specified, and this too at the beginning of the Session in a full House; whereas this unappropriating Clause comes in not only at the End of the Session, but at the End of the Parliament, in a thin House, after many Gentlemen were obliged to go to their respective Countries, and the House may be apprehended to have consisted chiefly of such who had either no Business in the Country, or had particular Reasons for not going there till this Clause should be first passed and take Effect.

5thly, Because this Clause gives Ministers such a Latitude to embezzle or misapply the Public Money, that we apprehend it to be of the most dangerous Consequence; for the Accounts (if any) given afterwards of the Disposal of such Sums, tho' impossible to be credited, may be impossible to be disproved; Domestic Fortunes may be raised out of Foreign Subsidies, and the Money asked for our Defence, and granted for our Safe-

ty, may be employed for our Destruction : The Vote of Credit in the Year 1726, and what was built upon it, cost the Nation one Million seven hundred ninety-seven thousand seven hundred and thirty Pounds, exclusive of the great Increase of Forces by Sea and Land that were granted by Parliament ; four hundred and thirty-five thousand Pounds were never accounted for to Parliament, and the rest was accounted for under the Articles of Money paid to the Landgrave of *Hesse*, amounting to one Million seventy-nine thousand seven hundred Pounds ; to the Crown of *Sweden* one hundred and fifty thousand Pounds ; to the Duke of *Wolfenbüttele* one hundred thousand Pounds ; to Exchange to the *Hessians* ten thousand three hundred thirty-five Pounds ; to Exchange to *Denmark* twenty-two thousand six hundred ninety four Pounds ; and all this Expence was incurred to guard against Dangers, which the Administration then gave out they apprehended from the exorbitant Power of the House of *Austria*.

6thly, Because the Money raised this Year amounts to three Millions nine hundred and eighty thousand Pounds ; one Million is raised by that expensive Way of mortgaging the Salt for eight Years ; the Sinking-Fund, amounting to twelve hundred thousand Pounds, is taken, and every Thing done that can carry an Appearance of easing the Land this Election Year : But this Bill not only gives the Ministers a Power over the whole Supply raised this Year, but, by this unprecedented Device, lays a certain Foundation of a greater Load upon the Land, which the Nation may be reduc'd to pay off with Interest next Year ; and we cannot omit this Circumstance, that the Money voted this Year exceeds the Supply to the Amount of above one hundred thousand Pounds,

7thly, Because we conceive this Precedent to be the more dangerous at the End of a Parliament, and may be followed, fatally for our Liberties, at the Conclusion of future Parliaments ; for we have little Reason to be sure, and as little to hope, that future Parliaments will be (like this) unbiass'd, uncorrupt, uninfluenc'd, by the great Number of Employments they enjoy ; zealous Assertors of the Laws, Liberties, and Constitution of their Country ;

Country : And should there ever hereafter unfortunately be chosen a *House of Commons*, consisting of a Set of Men corrupted by a Minister, bartering the Liberties of their Country in the most flagitious Manner, detested and despis'd by those they represent, they would probably, towards the End of their Term, compleat the Measure of their Iniquity, by lodging such a Power in the Hands of their corresponding Minister, as would enable him to chuse them again in the succeeding Parliament, contrary to the Intentions as well as Interests of their true Electors ; by which Means Corruption and Tyranny would be entail'd upon this Nation, in the most dangerous Manner, by the Sanction of Parliament.

8thly, Because blending inconsistent Matters of this Nature, as we conceive, in a Money-Bill, lays this House under the utmost Difficulties, since the Delays occasion'd by any Alterations made in this House to some Parts of a Money-Bill, may be unavoidable Obstructions to other Parts of it that require Expedition and Dispatch.

9thly, Because the extending of this unprecedented Power to the 24th of *December* next, is a Length of Time beyond what was ever known, as we apprehend, in any Case ; and is in our Opinion, not only dangerous, but unnecessary ; for the chief Pretence for the Vote was, to have Power during the Interval of Parliament, which may be chosen and meet much sooner, if it shall be thought convenient, after so extensive a Power is lodg'd in the Hands of the Ministers for so long a Term.

| | | |
|------------------------------|-------------------|-----------------------------|
| <i>Denbigh,</i> | <i>Craven,</i> | <i>Marlborough,</i> |
| <i>Litchfield,</i> | <i>Batburs,</i> | <i>Carteret,</i> |
| <i>Cowentry,</i> | <i>Weymouth,</i> | <i>Oxf. & Mortimer,</i> |
| <i>Northampton,</i> | <i>Montrose,</i> | <i>Tweeddale,</i> |
| <i>Wa. & Nottingham,</i> | <i>Stair,</i> | <i>Gower,</i> |
| <i>Clinton,</i> | <i>Strafford,</i> | <i>Ker,</i> |
| <i>Montjoy,</i> | <i>Thanet,</i> | <i>Masbam,</i> |

Die Veneris 28^o Februarii, 1734.

The Orders of the Day being read, for the House to proceed further in the Consideration of the Petition of *James Duke of Hamilton and Brandon, Charles Duke of Queensberry and Dover, James Duke of Montrose, Tho-*

mas Earl of Dundonald, *Alexander* Earl of Marchmont, and *John* Earl of Stair, in Relation to the Matter of the Election of the sixteen Peers for *Scotland*; and also to take into Consideration the Answer of the said Petitioners to the Order of this House of the 21st of this Instant *February*, deliver'd in Yesterday,

The said Answer was read ;

And it being mov'd to resolve, That the Petitioners, by their Answer, have not comply'd with the Order of this House of the 21st of this Instant *February*, whereby they were ordered to lay before this House in Writing the particular Instances of the undue Methods and illegal Practices complain'd of in their Petition, upon which they intend to proceed, with the Names of the Persons by whom such undue Methods and illegal Practices were used,

After Debate the Question was put there-
Contents 90 upon ?

Not Cont. 47 And it was resolv'd in the Affirmative.

Dissentient

1st, Because it was agreed in the Debate, conformable to the Rules of Reason, that no Impossibility was required from the Lord's Petitioners ; and tho' we allow that they have not literally complied with the Order, yet, we think, the Assertion in their Answer, " That it is impossible for them to inform the House who were the Persons that in the Course of the Examination, and from the Testimony of future Witnesses, may appear to have been concerned," was sufficient to satisfy the House, that they have not wilfully disobeyed the Order.

And from the Nature of Things, we conceive it impracticable for the Lords Petitioners to name all the Persons who may be concerned in these illegal Proceedings ; for altho' the Offers of Places, Pensions and other Gratuities must be presumed to come from Persons in Power, yet such Offers may be reasonably supposed to be conveyed by Under-Agents ; and we must also observe, that if those under-hand Agents should be publicly named before Examination, they may either be prevailed upon to abscond, or to take the Whole upon themselves, to screen Offenders of a higher Rank.

We

We must further declare it as our Opinion, that such corrupt and dark Designs, as are specified in the Answer, may have been carried on with that Secrecy and Dexterity, that altho' a moral Certainty may appear of their having been executed, the Persons concerned in the Execution may never be discovered; yet this good Effect might have arisen from the Enquiry, that the Legislature would have found Means to prevent such pernicious Practices for the future: And even in that Case, the Lords Petitioners, by bringing this Affair before the House, would have done a real Service to the Peerage of Scotland, to this high Court of Judicature, and to the whole united Kingdom.

Somerset, Tadcaster, Maynard.

2dly, Because we can no ways conceive, that the going on upon this Examination, without having the Names of the Persons produced, could be attended with any possible Injustice to, or Hardship upon those who might afterwards be named by the Evidence; On the contrary, we are persuaded, that such Persons would have an Advantage which could not happen in any other Course of Proceeding, the whole Matter of the Accusation would lie open to them, the Witnesses against them would be known, who could not afterwards be suffered to vary from their Testimony, and the House would in Justice allow such Persons a full Time to answer the Accusation and to bring up Witnesses, if necessary, to prove their Innocence: Neither is this to be looked upon as an Accusation at present; for, as it was justly observed, there are no Accusers, nor Persons accused: But we apprehend it to be the most proper Subject for a parliamentary Enquiry that can possibly be brought before this House.

3dly, However it may be necessary in the Course of other Proceedings, whether upon Impeachments or Appeals brought before this House, that all the Persons concerned should be named, we can by no means think it necessary upon an Enquiry, no final Sentence being then to be given; and those Rules which are consistent with Justice in the former Cases must, in our Opinion, tend to obstruct all Justice in the latter: We cannot conceive that an innocent Person, who should happen to be
named

named in the Course of such Examination, can possibly be deprived of the Means of making his Innocence appear; but we can well foresee, that guilty Persons, and those probably of the highest Rank, may escape by such a Method, which imposing an Impossibility on the Informants, must, as we apprehend, tend to defeat all parliamentary Enquiries; and therefore could not be, in our Opinion, within the Intention of the Order.

4thly, Because the Matters specified in the Answer are of such a Nature as seem only proper to be examined in this House; and had the Lords Petitioners sought a Remedy any where else, they might have been justly censured: We apprehend therefore, that the pinning them down to the precise Words of the Order may be attended with this fatal Consequence, that all parliamentary Enquiries may be render'd much more difficult hereafter; which may probably give such Encouragement to corrupt Ministers, that they may be prompted to make the most dangerous Attempts upon the Constitution, and hope to come off with Impunity: Such Apprehensions naturally suggest the melancholly Reflections, that our Posterity may see the Time, when some of those Lords, who sit upon a more precarious Foot than the rest of the House, having, thro' due Motives of Virtue and Honour, opposed the Designs of some future Minister, for that, and for that alone, may be excluded at an ensuing Election; and the whole World may be sensible of the Cause of their Exclusion, no Remedy may be found, but their Case may become a Subject of national Concern, Indignation and Repentment.

| | | |
|----------------------|---------------------|---------------------|
| <i>Scarsdale,</i> | <i>Strafford,</i> | <i>Litchfield,</i> |
| <i>Chesterfield,</i> | <i>Bruce,</i> | <i>Abingdon,</i> |
| <i>Boyle,</i> | <i>Denbigh,</i> | <i>Beaufort,</i> |
| <i>Huntingdon,</i> | <i>Bolton,</i> | <i>Craven,</i> |
| <i>Warrington,</i> | <i>Thanet,</i> | <i>Cobham,</i> |
| <i>Masbam,</i> | <i>Bedford,</i> | <i>Shaftesbury,</i> |
| <i>Bridgewater,</i> | <i>Northampton,</i> | <i>Coventry,</i> |
| <i>Graham,</i> | <i>Haverham,</i> | <i>Aylesford,</i> |
| <i>Macclesfield,</i> | <i>Berkshire.</i> | <i>Gower,</i> |
| <i>Foley,</i> | <i>Anglesey,</i> | <i>Bathurst.</i> |
| <i>Suffolk,</i> | | |

Then

Then it was moved to Order, that the said Petition be dismissed.

Contents 85 }
Proxies 14 } 99

And after further Debate, the Question being put upon the said Motion?

Not Cont. 49 }
Proxies 3 } 52

It was resolved in the Affirmative :

And ordered accordingly.

Dissentient

1st, Because that tho' the Lords Petitioners have not literally complied with the Order, according to the Sense of the House, yet they have laid before us Facts that are of so criminal a Nature in themselves, and so dangerous in their Consequence to the Nation in general, and to this House in particular, that we think a due Regard to the Safety of the one, and the Honour of the other, require the strictest Examination.

Somerſet, Tadcaſter, Maynard.

2^{dly}, For when we conſider the firſt Inſtance mentioned in the Answer of the Lords Petitioners, *viz.* " That " the Liſt of ſixteen Peers for *Scotland* had been framed " by Perſons in high Truſt under the Crown, long previous to the Election itſelf, and that this Liſt was " ſhewn to Peers, as a Liſt approv'd of by the Crown, " and was called the King's Liſt," we are fill'd with Indignation to ſee that great Name indecently blended with the Names of Miniſters, and profaned and proſtituted to the worſt Purpoſes ; Purpoſes that muſt neceſſarily tend to the Subverſion of our Conſtitution, which, we know, it is his Maſteſty's Glory and Deſire to preſerve : Such a criminal Attempt to ſcreen or facilitate a miniſterial Nomination, by the Interpoſition, equally falſe and illegal, of his Maſteſty's Name, calls, in our Opinion, for the ſtricteſt Enquiry, and the ſevereſt Punishment upon the Authors of the Fact, if it be prov'd, or the Aſſertors of it, if it be not : But is, in our Opinion, no Way to be dropt unexamin'd and unenquir'd into : Such a Precedent may, in future Times, encourage the worſt of Miniſters to load, with his Guilt, the beſt of Princes ; the borrowed Name of his Sovereign may at once become his Weapon and his Shield, and the

the Constitution owe its Danger, and he his Defence, to the Abuse of his Prince's Name, after a long Abuse of his Power.

3dly, Because the following Instances, viz. " That Endeavours were used to engage Peers to vote for this List, by Promise of Pensions and Offices Civil and Military to themselves and near Relations, and by actual Promise of Sums of Money.

" That Sums of Money were actually given to or for the Use of some Peers to engage them viz. to concur in voting this List.

" That annual Pensions were promised to be paid to Peers, if they concurred in the voting this List, some of them to be on a regular Establishment, and others to be paid without any Establishment at all.

" That about the Time of this Election, Numbers of Pensions, Offices, of which several were nominal, and Releases of Debts owing to the Crown were granted to Peers who concurred in voting this List, and to their near Relations," seem in the highest Degree to affect the Honour and Dignity of this House: Since untainted Streams can hardly be expected to flow from a corrupted Source: And if the Election of Sixteen Peers to represent the Peerage of *Scotland* should ever, by the foul Arts of Corruption, dwindle into ministerial Nomination instead of Persons of the first Rank, greatest Merit, and most considerable Property, we may expect, in future Parliaments, to see such only returned, who, owing their Election to the Nomination of the Minister, may purchase the Continuance of their precarious Seats by a fatal and unanimous Submission to his Dictates: Such Persons can never be impartial Judges of his Conduct, should it ever be brought in Judgment before this great Tribunal.

4thly, Because the last Instance mentioned, viz. " That on the Day of Election, a Battalion of his Majesty's Forces was drawn up in the *Abby-Court* at *Edinburgh*, and three Companies of them were marched from *Leith*, a Place at one Mile's Distance. to join the rest of the Battalion, and kept under Arms from Nine in the Morning till Nine at Night when the Election was ended, contrary to Custom at Elections, and without

" any

" any Cause or Occasion, that your Petitioners could
 " foresee, other than the over-awing of the Election,"
 we apprehend to be of the highest Consequence both to
 our Liberties in general, and the Freedom of Elections
 in particular; since whatever may have been the Pre-
 tence, whatever Apprehensions of Disorders or Tumults
 may have been alledged in this Case, may be e-
 qually alledged on future Occasions, especially
 as we have a Number of regular Forces, abundantly
 sufficient to answer such Calls; and we apprehend, that
 the Employment assigned to this Battalion will give great
 Distrust and Uneasiness to many of his Majesty's Sub-
 jects, who will fear what Use may be made of the rest
 of that very great Number of Men now kept up in this
 Nation.

5thly, Because we conceive, that such a Treatment
 given to a Petition that contained an Information of
 Matters of so great Importance, and signed by Peers of
 such great Rank, Honour and Veracity, must in future
 Times discourage all Informations of the like Nature.

6thly, Though all Lords declared their Desire of ex-
 amining to the Bottom of these important Facts, and
 though we should acknowledge ourselves to be persuaded
 that it was their real Intention, yet we much doubt,
 whether the World will judge with the same Candour,
 and not rather impute this Dismissal of the Petition to an
 Unwillingness in this House to enquire into Facts that
 are in their Nature so injurious to the Crown, so de-
 structive of the Honour of Parliament, and so dangerous
 to the whole Frame of our happy Constitution.

| | | |
|--------------|---------------|--------------|
| Graham, | Bedford, | Berkshire, |
| Strafford, | Scarsdale, | Shaftesbury, |
| Foley, | Chesterfield, | Bathurst, |
| Cobham, | Litchfield, | Bridgewater, |
| Beaufort, | Masbam, | Bruce, |
| Abingdon, | Boyle, | Huntingdon, |
| Warrington, | Denbigh, | Craven, |
| Bolton, | Thanet, | Coventry, |
| Northampton, | Macclesfield, | Anglesey, |
| Aylesford, | Gower, | Haverham, |
| Suffolk, | | |

After which, a printed Paper, entitled, *The Protests of the most Noble and Right Honourable the Peers of Scotland, made in the Borough-Room at Edinburgh, June the 4th 1734*, as containing Reflections upon the Government and the Peerage, was offered to the House.

As was also a written Copy of the said Protests, attested by Witnesses who were ready to prove it to be an authentic Copy.

And it being desired, that the same may be read,

It was moved to adjourn,

After Debate, the Question was put,

Contents 73 whether the House shall be now adjourned to Monday next at Eleven of the Clock?

It was resolved in the Affirmative.

Dissentient

Because we can by no means think it consistent with the Honour of the House to adjourn without appointing a Day, as was proposed, to consider of a Matter allowed universally to be of the highest Importance; and we have Reason to apprehend that Posterity, upon the Perusal of the Journal of this Day, may be induced to think, that this House was not inclined to permit the Transactions of the late Election in *Scotland* to be brought under Examination in any Shape whatsoever; the Method proposed being, as we conceive, clear of all Objections which were made in Relation to the Petition.

| | | |
|--------------------|----------------------|----------------------|
| <i>Graham,</i> | <i>Berkshire,</i> | <i>Scarsdale,</i> |
| <i>Haverham,</i> | <i>Foley,</i> | <i>Shaftesbury,</i> |
| <i>Bedford,</i> | <i>Bridgewater,</i> | <i>Coventry,</i> |
| <i>Stratford,</i> | <i>Aylesford,</i> | <i>Abingdon,</i> |
| <i>Warrington,</i> | <i>Chesterfield,</i> | <i>Cobham,</i> |
| <i>Litchfield,</i> | <i>Denbigh,</i> | <i>Masbam,</i> |
| <i>Braunfort,</i> | <i>Bruce,</i> | <i>Bolton,</i> |
| <i>Bathurst,</i> | <i>Boyle,</i> | <i>Thanet,</i> |
| <i>Huntingdon,</i> | <i>Northampton,</i> | <i>Macclesfield,</i> |
| <i>Craven,</i> | <i>Anglesey,</i> | <i>Gower.</i> |
| <i>Maynard,</i> | <i>Suffolk,</i> | |

Die Mercurii 17° Aprilis, 1735.

The Lord *Delawarr*, according to Order, reported from the Committee of the whole House, to whom the Bill

Bill, entitled, *An Act for regulating the quartering of Soldiers during the Time of the Elections of Members to serve in Parliament*, was committed, the Amendments made by the Committee to the said Bill; and the same were read by the Clerk.

And the first Amendment being read a second Time, which was, to leave out the latter Part of the Preamble, and to substitute Words instead thereof reciting, [That it hath been the Usage and Practice to cause any Number of Soldiers, quartered in any Place appointed for electing of Members to serve in Parliament, to remove out of the same during the Time of Election.]

Which being objected to,

Contents 61 After Debate, the Question was put, whe-
Not Cont. 33 ther to agree with the Committee in
the said Amendment?

It was resolved in the Affirmative.

Dissentient

1st, Because we conceive these Words, " To the End therefore that the same may be safely transmitted to Posterity, and for the avoiding any Inconveniences that may arise thereunto from any Regiment, Troop or Company, or any Number of Soldiers which shall be quartered or billeted within any City, Borough, Town, or Place, where any Election of any Member or Members to serve in Parliament, or of the sixteen Peers to represent the Peerage of Scotland in Parliament, or of any of them, shall be appointed to be made;" extremely proper, in a Bill calculated to preserve to us and our Posterity the Enjoyment of our Liberties, by securing the Freedom of Elections: Besides that, in our Opinion, it seems very extraordinary to leave out Words that singly intimate our Desire of transmitting to our Posterity the Liberties we enjoy ourselves.

2^{dly}, Because we cannot conceive, that there was any Weight in the Argument urged for omitting those Words, viz. [That they carried an Imputation that some Facts had been committed contrary to the Freedom of Elections] which this Bill was to prevent for the future; whereas, in our Opinion, it is so much the contrary, that, we think, the leaving out those Words, the natu-

ral Import of which carry no Imputation at all, may possibly be construed as a Consciousness of some irregular Use made of Troops at Elections, which, it might be apprehended, these Words might point out, especially since Reports of that Nature have of late been spread, whether well grounded or not we do not take upon ourselves to determine.

| | | |
|-------------------------|---------------------|---------------------|
| <i>Denbigh,</i> | <i>Coventry,</i> | <i>Ker,</i> |
| <i>Chesterfield,</i> | <i>Clinton,</i> | <i>Bridgewater,</i> |
| <i>Litchfield,</i> | <i>Berkshire,</i> | <i>Anglesey,</i> |
| <i>Bolton,</i> | <i>Craven,</i> | <i>Gower,</i> |
| <i>Thanet,</i> | <i>Huntingdon,</i> | <i>Foley,</i> |
| <i>Carteret,</i> | <i>Cobham,</i> | <i>Beaufort,</i> |
| <i>Winchelsea &</i> | <i>Bathurst,</i> | <i>Haverham,</i> |
| <i>Nottingham,</i> | <i>Shaftesbury,</i> | <i>Boyle.</i> |
| <i>R. Lincoln,</i> | <i>Montjoy,</i> | |

Then another Amendment was read a second Time, being to leave out the second enacting Clause, which was to inflict Penalties and Punishments on Officers and Soldiers who should refuse or neglect to remove out of Places at the Time of Elections, and to substitute Words inflicting Punishments on the Secretary at War, in Case he neglects to issue Orders for such Removal.

And it being proposed to agree with the Committee in that Amendment,

Contents 64 After Debate, the Question was put
Not Cont. 33 thereupon ? And

It was resolved in the Affirmative.

Dissentient

1st, Because we conceive, that the leaving out this Clause is, in Reality, defeating the Effect and Intention of the whole Bill; a Bill thought so necessary by the whole House, that the learned Judges were unanimously ordered to prepare and bring it in, in Lieu of a Clause, to the same Purpose, offered to be inserted in the annual Act to prevent Mutiny and Desertion.

2^{dly}, Because we think it much more necessary, that Officers and Soldiers should be subject to be tried by the Civil Power for an Offence of this high Nature against the Constitution in general, than for quartering a Man contrary to the Method prescribed by the Act to prevent Mutiny and Desertion, for which Crime they are at present

sent liable to be tried and cashier'd by the Civil Magistrate.

2dly, Because we conceive, that this Offence, being an Offence of the highest Nature against the Civil Government, is properly cognizable by the Civil Magistrate only, and most improperly referred to the Determination of a Court-Martial: Offences against Military Discipline are justly reserved for the Decision of a Court-Martial, as consisting of Persons of the same Profession, and consequently the properest Judges; and by a Parity of Reasoning, we conceive, the Civil Magistrate is the fittest Judge of Civil Offences: We cannot therefore but fear, that a Court-Martial may consist of Persons who may be at least ignorant, and possibly hasty and partial Judges of the Merits of an Election.

4thly, Because the Intention of this Bill being to prevent any Insults from Troops during the Time of Elections, we should provide against all possible Dangers; and tho', during his Majesty's Reign, we apprehend no ill Use will be made of the Troops, yet, in future Times, Ministers may prevail, whose unpopular and detested Administration may leave them no Hopes of Security from a free elected Parliament, and reduce them to violent and illegal Methods of employing those Troops, kept up by the Corruption of one Parliament, in the forcible Election, or rather the Nomination of another: In which Case no Remedy can be hoped for against Officers so offending, since, as the Act now stands, they can only be tried by a Court-Martial, and a Court-Martial can only be appointed by the Crown; and consequently the same wicked Minister, who may hereafter advise such an Attempt upon our Constitution, will not be likely to permit his guilty Agents to suffer, but the Merits of their Crime will carry Impunity along with it.

5thly, Because we cannot conceive, that the Arguments drawn from the Possibility of a Riot at an Election, or of a Rebellion or Invasion during the Time of Elections; where'in the Assistance of the Military Power may be necessary, were in any Degree sufficient to induce the House to leave out this Clause; since in the Case of a Riot, the Civil Magistrate is already armed with a rigorous Penal Law, known by the Name of the

Riot-Act ; and in the Case of a Rebellion or Invasion, it is well known that this and all other Laws would be silent : But, on the other hand, we apprehend, great Inconveniencies may arise, if Troops have Liberty to march into Towns, during the Time of Elections, at the Requisition of a partial or corrupted Civil Magistrate, who may call a Majority he dislikes a Tumult, and supply with Force the Want of Interest of an unknown and unqualified Candidate ; by which means the Voice of the People may be drowned in the Noise of Arms.

6thly, Because we apprehend, that a very injurious and dangerous Construction may, by malicious People (too speciously) be put upon the leaving out of this Clause, [That altho' the Unpopularity of rejecting the Bill itself could not be withstood, yet the eluding and enervating the Efficacy of it had been indirectly brought about.] Which Supposition, however groundless, may give great Uneasiness and Apprehensions to many of his Majesty's good Subjects, and bring very great Unpopularity upon the Administration ; an Evil, by all possible means to be prevented, since Hate begets Hate ; and an Administration once become unpopular soon becomes desperate, and may endeavour to strengthen their crazy and rotten Foundation, by tearing away, for their own Use, the Corner-Stones of the Liberties of the People.

Winchelsea &

Nottingham,

Berkshire,

Chesterfield,

Cobham,

Bridgewater,

R. Lincoln,

Beaufort,

Montjoy,

Boyle,

Huntingdon,

Clinton,

Bolton,

Tbanet,

Carteret,

Craven,

Ker,

Litchfield,

Coventry,

Bathurst,

Shaftesbury,

Haveſham.

We dissent for all the above-mentioned Reasons, except the third.

Angleſey,

Gower,

Foley,

Die Veneris 9^o Maii, 1735.

Hodie 2^a vice lecta est Billa, entitled, An Act for explaining and amending an Act passed in the Parliament
of

of *Scotland* in the Year 1701, entitled, *An Act for preventing wrong Imprisonment, and against undue Delays in Trials.*

Proposed to commit the Bill.

| | | |
|-----------|----|--|
| Contents | 28 | After Debate, the Question was put, |
| Not Cont. | 68 | whether this Bill shall be committed ? |
| | | It was resolved in the Negative. |

Dissentient.

1st, Because we apprehend, a Bill of this Nature sent up from *the House of Commons* ought, at least, to have undergone the Form of a Commitment, since whatever was unnecessary or wrong in it might there have been left out or amended ; but several Matters contained in the Bill seem to us highly expedient to be passed into a Law ; for by the Law of *Scotland*, as it now stands, any Judge may, by a summary Warrant, commit Persons upon Information signed, without any Oath made, and without convening the Parties before him, or hearing what they can alledge in their own Justification, and send them to a remote Prison in any Corner of the Kingdom ; no express Words in any Statute do at present forbid such a Practice : And we have great Reason to believe, that some Abuse of this unlimited Power did appear before *the House of Commons*, which might probably give the first Rise to the Bill.

2^{dly}, Because, as the *Habeas Corpus* Act is the great Security of the Liberties of this Part of the united Kingdom, it would be, in our Opinion, both unsafe and ungenerous not to extend the same Liberty to the other ; for should they, who have hitherto been brave Assertors of their Liberties, find themselves exposed to Oppressions from which the rest of their Fellow-Subjects are secured by Law, Necessity may prompt them to attempt by Violence to free themselves, or Revenge provoke them to become the Instruments of Power, and bring us under the same Dependence ; and the History of late Times sufficiently convinces us, that in those Reigns, when arbitrary Power was designed and attempted in this Kingdom, desperate and adventurous Agents were sent first to try the Experiment in *Scotland*.

3^{dly}, Because there was no Provision in the Bill to prevent an Abuse of seizing Persons on Pretence of Debt,

and detaining them till the Elections were over, where they had a Right to vote. The Protection granted by the Bill was no more than what every common Court of Justice actually allows to any Evidence whose Presence may be necessary in Matters of much less Consequence; and we cannot help testifying our Surprise, that this Regulation has not already been made over the whole united Kingdom; we hope, however, another Session will not pass without taking effectual Care to prevent such a dangerous Abuse of Law.

4^{thly}, Because Experience has shewn us the Benefits which arose by delivering the Subjects of that Part of the Kingdom from their Vassalage, and freeing them from a servile Dependence on their Superiors; and as (we conceive) the Purport of this Bill was nothing more than a natural Extension of the same Measure, it would have been the most probable, if not the only Method to eradicate any remaining Disaffection, tho' we have no Ground to suppose, from any late Transactions, that there is any such; on the contrary, those who were thought the most disaffected have lately appeared sufficiently tractable; but what Dissatisfaction the rejecting such a Bill may create, even amongst the best Subjects, and those who have always been most attached to the present Establishment, we cannot reflect upon without Concern; for as the Union was made in Support of the present Establishment, which is founded upon the Revolution, and the Revolution upon Principles of Liberty, they who have always asserted those Principles may (as we apprehend) justly complain, that the Liberty of the Subject is not equally secured in every Part of the united Kingdom.

5^{thly}, Because, we are apprehensive, it will appear very extraordinary to the World, That a Bill for the Security of the Liberty of the Subject should have been thrown out of this House without a Commitment, when so many Bills have passed for laying on, or continuing severe and heavy Duties upon them: Remote Apprehensions, barely possible, and Suspensions of Disaffection, have been Arguments formerly made use of on the Side of the Crown, for enacting the severest Penal Laws upon the Subject; and we conceive it still more incumbent

on the Legislature to be watchful over the Liberties of the People committed to their Care, since it is much easier to restrain Liberty from running into Licentiousness, than Power from swelling into Tyranny and Oppression.

6thly, Because Liberty being the common Birthright of all Mankind, and still preserved to this Nation by the Wisdom and Courage of our Ancestors, we think an Infringement of that Right, tho' but for an Hour, by wrongful Imprisonment, is not only an Injury to the Person immediately concerned, but a notorious Invasion of the Constitution: We should not deserve those Liberties ourselves, if we did not take the most effectual Methods to transmit them in their full Extent to latest Posterity, and to restrain by proper Laws any flagitious Attempts of Ministers, prompted by Ambition or drove by Despair, who may at any time hereafter endeavour to undermine or attack them: Humanity and Generosity particularly call upon us, who are distinguished by many Privileges and Advantages peculiar to ourselves, to secure to the People that Liberty which they have an equal Right to with us; a Blessing the meanest Subject of this Kingdom ought ever to enjoy in common with the greatest.

| | | |
|-----------------------------------|--------------------|------------------|
| <i>Chesterfield,</i> | <i>Cobham,</i> | <i>Coventry,</i> |
| <i>Oxford & Mortimer,</i> | <i>Strafford,</i> | <i>Thurst,</i> |
| <i>Montjoy,</i> | <i>Bathurst,</i> | <i>Gower,</i> |
| <i>Winchelsea and Nottingham,</i> | <i>Litchfield,</i> | <i>Haverham,</i> |
| <i>Northampton,</i> | <i>Boyle,</i> | <i>Suffolk.</i> |
| <i>Berkshire,</i> | <i>Foley,</i> | |

Die Mercurii 19^o Maii, 1736.

Hodie 3^a lecta est Billa, entitled, an Act for indemnifying Persons who have been guilty of Offences against the Laws made for securing the Revenues of Customs and Excise, and for enforcing those Laws for the future.

And, after a long Debate on the Merits of the Bill, it was proposed to add a Clause by way of Rider, in the Words following, *viz.*

“ Provided always, That nothing in this Act contained shall extend, or be construed to extend, to restrain his Majesty's Court of *King's-Bench*, or any of the Judges thereof, or the Court of *Justiciary* in *Scotland*, respectively, from bailing any Person committed for Felony by virtue of this Act, in such manner as they may by Law do in other Cases of Felony.

Which Proviso was read thrice by the Clerk, and agreed by the House to be made Part of the Bill.

| | | |
|-----------|-----|--|
| Contents | 367 | The Question was put, whether this Bill, with the Amendment, shall pass? |
| Proxies | 187 | |
| Not Cont. | 327 | It was resolved in the Affirmative. |
| Proxies | 147 | |

Dissentient

1st, Because some Parts of this Bill are so repugnant to the Laws and Constitution of this Kingdom, as we apprehend, that we could not, consistently with the Rules of Reason and Justice, concur in the passing of it, the Substance of one Clause in this Bill being to this Effect, *viz.* “ That upon Information before a Justice of Peace, that any Persons, to the Number of three or more, who are, or have been, after the 24th Day of *June*, 1736, armed with Fire-Arms, or other offensive Weapons, with Intent to run Goods, such Justice shall, and may, grant a Warrant to a Constable to apprehend such Persons; and if such Justice finds Cause, upon Examination, he shall, and may, commit them to the next County-Jail, there to remain, without Bail or Mainprize, until discharged by due Course of Law; or, upon Conviction, they are to be adjudged guilty of Felony.” Now as this Bill is to create a new kind of Felony, without Limitation of Time or Place, upon Principles unknown to our Law, we cannot but think it should be made so plain and clear, that the Judges in *Westminster-Hall* might determine upon it without Doubts or Difficulties; but we conceive, as this Bill stands, many Doubts may arise as to the Construction of it.

2^{dly}, Because we do not know of any one Act in the *Statute-Book*, whereby it is put in the Power of a single Justice

Justice of the Peace to commit Persons without Bail or Mainprize, upon a bare Information of an Intention, without any Proof: And altho' the House found it necessary to repeal so much of the Clause aforesaid as allows the Justices to commit without Bail or Mainprize, by adding a Rider to empower the Court of *King's-Bench* to grant Bail to Persons so committed, we cannot be of opinion, that the Objections to the Bill were removed, since the Power of Imprisonment still remains in the Hands of a single Justice of the Peace, upon a bare Information of an Intention to run Goods, without any other Overt-Act to prove that Intention than what may be a common and innocent Circumstance, *viz.* The riding three or more in Company with usual Arms, and no Limitation fixed either for Time or Place.

3dly, Because this Bill was altered in the Committee by the unanimous Consent of all the Lords present, and those Alterations were disagreed to upon the Report, without sufficient ground, as we conceive; and as two noble and learned Lords, who preside in the two greatest Courts of the Kingdom, shewed, by the strongest Arguments, that the Bill, as it now stands, may be dangerous to the Liberties of our Fellow-Subjects, we could not agree to the passing of it, however expedient or necessary it may be supposed in other Respects; being fully persuaded it would have been better to have left this Matter to the Laws now in being (already very severe) and to the Consideration of a future Session of Parliament, than to constitute a Precedent of such dangerous Consequence, and to enact a Law which, as we fear, may be attended with perpetual Grievances, Injustice, and Oppression.

| | | |
|--------------------|-----------------------|---------------------|
| <i>Shaftsbury,</i> | <i>Winchelsea and</i> | <i>Cobham,</i> |
| <i>Oxford and</i> | <i>Nottingham,</i> | <i>Foley,</i> |
| <i>Mortimer,</i> | <i>Thanet,</i> | <i>Stratford,</i> |
| <i>Weymouth,</i> | <i>Warrington,</i> | <i>Beaufort,</i> |
| <i>Litchfield,</i> | <i>Montjoy,</i> | <i>Coventry,</i> |
| <i>Bolton,</i> | <i>Bathurst,</i> | <i>Northampton.</i> |

Die Veneris 25^o Februarii, 1736.

The House being moved, That an humble Address be presented to his Majesty, to express the just Sense of

this House of his great Goodness and tender Regard for the lasting Welfare and Happiness of his People in the Marriage of his Royal Highness the Prince of *Wales*; and as this House cannot omit any Opportunity of shewing their Zeal and Regard for his Majesty's Honour and the Prosperity of his Family, humbly to beseech his Majesty, that in Consideration of the high Rank and Dignity of their Royal Highness the Prince and Princess of *Wales*, and their many eminent Virtues and Merits, he would be graciously pleased to settle one hundred thousand Pounds a Year on the Prince of *Wales*, out of the Revenues cheerfully granted to his Majesty (for the Expences of his Civil Government, and better supporting the Dignity of the Crown, and for enabling his Majesty to make an honourable Provision for his Royal Family) in the like manner his Majesty enjoyed it before his happy Accession to the Throne; and also humbly to beseech his Majesty to settle the like Jointure on her Royal Highness the Princess of *Wales*, as her Majesty had when she was Princess of *Wales*; and to assure his Majesty, that this House will be ready to do every thing on their Part to perform the same, as nothing will more conduce to the strengthening of his Majesty's Government than honourably supporting the Dignity of their Royal Highnesses, from whom we hope to see a numerous Issue, to deliver down the Blessings of his Majesty's Reign to latest Posterity.

The Duke of *Newcastle* signified to the House, That he was commanded by his Majesty to acquaint their Lordships, that his Majesty did, on *Monday* last, send a Message to his Royal Highness the Prince of *Wales*, by the Lord Chancellor, Lord President, Lord Steward, Lord Chamberlain, Duke of *Richmond*, Duke of *Argyll*, Earl of *Pembroke*, Earl of *Scarborough*, Lord *Harrington*, and himself; which Message so sent by the Lords, being in Writing, was read as follows, *viz.*

(His Majesty has commanded us to acquaint your Royal Highness, in his Name, That upon your Royal Highness's Marriage, he immediately took into his Royal Consideration the Settling a proper Jointure upon the Princess of *Wales*, but his sudden going Abroad, and his late Indisposition since his Return, had hitherto re-

warded

tarded the Execution of these his gracious Intentions : From which short Delay his Majesty did not apprehend any Inconveniencies could arise, especially since no Application had, in any manner, been made to him, upon this Subject, by your Royal Highness; and that his Majesty hath now given Orders for settling a Jointure upon the Princess of *Wales*, as far as he is enabled by Law, suitable to her high Rank and Dignity; which he will, in proper time, lay before his Parliament, in order to be render'd certain and effectual for the Benefit of her Royal Highness.

The King has further commanded us to acquaint your Royal Highness, That altho' your Royal Highness has not thought fit, by any Application to his Majesty, to desire that your Allowance of fifty thousand Pounds *per Annum*, which is now paid you by Monthly Payments, at the Choice of your Royal Highness, preferably to quarterly Payments, might, by his Majesty's further Grace and Favour, be render'd less precarious; his Majesty, to prevent the bad Consequences which he apprehends may follow from the undutiful Measures which his Majesty is informed your Royal Highness has been advised to pursue, will grant to your Royal Highness, for his Majesty's Life, the said fifty thousand Pounds *per Annum*, to be issuing out of his Majesty's Civil-List Revenues, over and above your Royal Highness's Revenues arising from the Duchy of *Cornwall*, which his Majesty thinks a very competent Allowance, considering his numerous Issue, and the great Expences which do and must necessarily attend an honourable Provision for his whole Royal Family.)

And that to this Message his Royal Highness the Prince returned a verbal Answer, which, according to the best Recollection and Remembrance of the Lords, was in Substance as follows, *viz.*

(That his Royal Highness desired the Lords to lay him, with all Humility, at his Majesty's Feet, and to assure his Majesty, that he had, and ever should retain the utmost Duty for his Royal Person: That his Royal Highness was very thankful for any Instance of his Majesty's Goodness to him or the Princess, and particularly for his Majesty's gracious Intention of settling a Jointure

upon her Royal Highness; but that as to the Message, the Affair was now out of his Hands, and therefore he could give no Answer to it.

After which his Royal Highness used many dutiful Expressions towards his Majesty, and then added, " In- deed, my Lords, it is in other Hands; I am sorry " for it;" or to that Effect.

His Royal Highness concluded with earnestly desiring the Lords to represent his Answer to his Majesty in the most respectful and dutiful manner.

Which Message and Answer being read by the Lord Chancellor,

After long Debate upon the foregoing Motion,

| | | | |
|--------------|---|-----|---|
| Contents | } | 40 | The Question was put, whether such such an Address shall be presented to his Majesty? |
| Proxies 12 | | | |
| Not Cont. 79 | } | 203 | It was resolved in the Negative. |
| Proxies 24 | | | |

Dissentient'

1st, Because that this House has an undoubted Right to offer, in an humble Address to his Majesty, their Sense upon all Subjects in which this House shall conceive that the Honour and Interest of the Nation are concerned.

2^{dly}, Because the Honour and Interest of the Nation, Crown and Royal Family can be concerned in nothing more, than in having a due and independent Provision made for the first-born Son and Heir apparent of the Crown.

3^{dly}, Because in the late King's Reign one hundred thousand Pounds a Year, clear of all Deductions whatever, was settled upon his present Majesty, when Prince of *Wales*, out of a Civil-List not exceeding seven hundred thousand Pounds a Year.

4^{thly}, Because his present Majesty has granted to him, by Parliament, several Funds to compose a Civil-List of eight hundred thousand Pounds a Year, which, we have very good Reason to believe, bring in at least nine hundred thousand Pounds, and are more likely to increase than to diminish.

5^{thly}, Because out of this extraordinary and growing Civil-List, we humbly conceive, his Majesty may be able

able to make an honourable Provision for the rest of his Royal Family, without any Necessity of lessening that Revenue which, in his own Case when he was Prince of *Wales*, the Wisdom of Parliament adjudged to be a proper Maintenance for the first-born Son and Heir apparent of the Crown.

6thly, Because it is the undoubted Right of Parliament to explain the Intention of their own Acts, and to offer their Advice in pursuance thereof; and tho' in the inferior Courts of *Westminster-Hall* the Judges can only consider an Act of Parliament according to the Letter and express Words of the Act; the Parliament itself may proceed in a higher Way, by declaring what was their Sense in passing it, and on what Grounds; especially in a Matter recent and within the Memory of many in the House, as well as out of it.

7thly, Because there were many obvious and good Reasons why the Sum of one hundred thousand Pounds *per Annum* for the Prince was not specified in the Act passed at that time, particularly his being a Minor and unmarried: But we do apprehend, that it is obvious that the Parliament would not have granted to his Majesty so great a Revenue above that of the late King, but with an Intention that one hundred thousand Pounds a Year should at a proper Time be settled on the Prince, in the same Manner as it was enjoyed by his royal Father when he was Prince of *Wales*: And his Royal Highness being now thirty Years old, and most happily married, we apprehend it can no longer be delayed, without Prejudice to the Honour of the Family, the Right of the Prince of *Wales*, and Intention of the Parliament. And as in many Cases the Crown is known to stand as Trustee for the Public, upon Grants in Parliament; so we humbly conceive, that in this Case, according to the Intention of Parliament; the Crown stands as Trustee for the Prince, for the aforesaid Sum.

8. Because we do conceive, that the present Princess of *Wales* ought to have the like Jointure that her present Majesty had when she was Princess of *Wales*, and that it would be for the Honour of the Crown, that no Distinction whatever should be made between Persons of equal Rank and Dignity.

9. Because

9. Because we apprehend, that it has always been the Policy of this Country, and Care of Parliament, that a suitable Provision, independent of the Crown, should be made for the Heir apparent, that by shewing him early the Ease and Dignity of Independance, he may learn by his own Experience, how a great and free People should be governed. And as we are convinced in our Consciences, that if this Question had been passed in the Affirmative, it would have prevented all future Uneasiness that may unhappily arise upon this Subject, by removing the Cause of such Uneasiness, and giving his Royal Highness what we apprehend to be his Right; we make use of the Privileges inherent in Members of this House, to clear ourselves to all Posterity, from being concerned in laying it aside.

10. Lastly, we thought it more incumbent upon us to insist upon this Motion, for the Sake of this Royal Family, under which alone we are fully convinced we can live free, and under this Royal Family we are fully determined we will live free.

| | | |
|-----------------------|---------------------|------------------|
| <i>Winchelsea</i> and | <i>Cardigan,</i> | <i>Weymouth,</i> |
| <i>Nottingham,</i> | <i>Marlborough,</i> | <i>Bathurst,</i> |
| <i>Berkshire,</i> | <i>Carteret,</i> | <i>Coventry,</i> |
| <i>Cobham,</i> | <i>Bridgewater,</i> | <i>Ker,</i> |
| <i>Chesterfield,</i> | <i>Bedford,</i> | <i>Suffolk.</i> |

Die Martis 18^o Novembris 1739.

His Majesty this Day came to the House, and open'd the Session, and made a Speech.

Upon which a Motion was made, That an humble Address be presented to his Majesty, returning him the Thanks of this House for his most gracious Speech from the Throne. To congratulate his Majesty on his safe Return to his Regal Dominions. To assure his Majesty, that we will stand by him with our Lives and Fortunes, in the Prosecution of the just and necessary War in which he is engaged. And as a further Proof of our Duty and Affection to his Majesty's sacred Person, Royal Family and Government, to assure him, that we will exert ourselves in our high Capacity of hereditary great Council of the Crown (to which all other Councils are subordinate and accountable) in such a manner as may best

best tend to the promoting the true Interest of his Majesty, and our Country, in this critical Juncture.

Another Motion was made that their Lordships should resolve, That an humble Address be presented to his Majesty, to return him the Thanks of this House for his most gracious Speech from the Throne. To acknowledge his Majesty's great Wisdom, and his Adherence to the true Interest of his Kingdoms, in resolving to carry on this just and necessary War in the most proper Places, and in the most vigorous and effectual Manner; and in not suffering himself to be diverted or deterred from those Measures. To give his Majesty the strongest Assurances, that if any Power should attempt to prescribe or limit the Operations of War against his declared Enemies, such an extraordinary Proceeding would not fail to create a just Indignation in us, and determine us to concur in all proper Measures for vindicating and defending his Dignity and Honour against any Insults, and frustrating any Designs formed against us. To assure his Majesty, that this House will zealously stand by and support him in adhering to the Engagements he is under for maintaining the Balance and Liberties of *Europe*, on the Event of the late Emperor's Death, as well as in the Prosecution of the present War. To express our unshaken and unalterable Fidelity and Affection to his Majesty's Person and Government, and our ardent Wishes, that all his Enterprizes for maintaining the Honour of his Crown, and the Rights of his People, may be blessed with Success.

In the Debate on these Motions it was proposed, to add to the second Paragraph of the first Motion these Words: [Or in any other War in which he may be necessarily engag'd, for maintaining the Balance and Liberties of *Europe*, on the Event of the late Emperor's Death.] And to leave out the Words: [To which all other Councils are subordinate and accountable:]

Contents 38 The previous Question being then put, it
NotCont. 66 passed in the Negative;

Whereupon a Motion was made and the Question was put, by Way of Amendment, to insert immediately before the last Paragraph, these Words, *viz.* [And as a farther Proof our Duty and Affection to his Ma-

Majesty's sacred Person, Royal Family and Government, to assure him, that we will exert ourselves in our high Capacity of hereditary great Council of the Crown, in such a Manner as may best tend to the promoting the true Interest of his Majesty and our Country, in this critical Juncture.]

This Motion was disagreed to without any Debate:

And then it was proposed to agree to the second Motion without Amendment,

Whereupon the following Protests were entered, viz.

Dissentient

Macclesfield.

1st, Because we conceive, that a Motion of this Nature ought not to have been laid aside by the previous Question; but we apprehend it would have been more consistent with the Honour and Dignity of this House to have passed it in the Affirmative, since it contained the strongest Assurances of our Duty to his Majesty, and of our Zeal to support him with our Lives and Fortunes in the Prosecution of this just and necessary War; moreover, it had been universally allowed in the Debate, that the antient Usage of this House was to return immediately a general Address of Thanks only for the Speech from the Throne, and to appoint a future Day for taking the said Speech into Consideration: By which wise Method of Proceeding, this House had an Opportunity of forming their Judgment and offering their Advice to the Crown, upon the several Matters contained in the Speech after due Enquiry and mature Deliberation.

2^{dly}, Because, tho' the Speech from the Throne is in Parliament justly considered as the Act of his Ministers, yet a Motion pre-concerted, if not drawn by themselves, echoing back the Particulars of the Speech, is, as we conceive, a modern Expedient to procure a precipitate Approbation of Measures which might not be approved upon better Consideration. It was indeed alledged in the Debate, in support of this Practice, that it was introduced during the late War, in the Administration of the late Earl of Godolphin; but we should also consider the Reason of it, (we heartily wish we had now the same) that the Zeal of the House was then every Year animat-
ed

ted by the glorious Successes of the Queen's Arms under the Command of the Duke of *Marlborough*. And tho' it is always admitted that these hasty Addresses do not preclude the House from future Enquiries or Censures; yet should Censures, in Consequence of such Enquiries, become necessary, they would produce an Inconsistency between the first Address and the subsequent Resolutions, and argue a Levity highly unbecoming the Wisdom and Dignity of this House.

3dly, Because one Part of this Motion, the Congratulation upon his Majesty's safe Return to his Regal Dominions, could be liable to no Objection, but seemed at this Time peculiarly seasonable, since it was evident to the whole Kingdom, the Sailing of the Fleet, which had been delayed so long, was the immediate Effect of his happy Return.

4thly, Because we conceive, that our assuring his Majesty that we would exert ourselves in our high Capacity of hereditary great Council of the Crown, would have given Encouragement to his Allies, Confidence to his Armies, and Satisfaction to his Subject, especially in this critical Conjunction, wherein the Advice of this House is more than ever necessary, since by the Inaction of this last Year in all Parts (except wherein Admiral *Vernon* commanded) notwithstanding the vast Fleets and Armies maintained at so immense a Charge, this just and necessary War seems hitherto to have been carried on by the same Spirit and Advice which so long delay'd the entering into it; and we conceive that the strictest Enquiries into such Conduct are the most probable Means of redressing our Grievances at home, and bringing the War abroad to a speedy and happy Conclusion.

| | | |
|-----------------------|-----------------------------|-------------------|
| <i>Buccleugh,</i> | <i>Stanhope,</i> | <i>Hallifax,</i> |
| <i>Chesterfield,</i> | <i>Bridgewater,</i> | <i>Beaufort,</i> |
| <i>Winchelsea and</i> | <i>Litchfield,</i> | <i>Talbot,</i> |
| <i>Nottingham,</i> | <i>Willoughby de Brook,</i> | <i>Greenwich,</i> |
| <i>Garteret,</i> | <i>Shaftesbury,</i> | <i>Clifton,</i> |
| <i>Haverham,</i> | <i>Carlisle,</i> | <i>Denbigh,</i> |
| <i>Bathurst,</i> | <i>Craven,</i> | <i>Thames.</i> |
| <i>Gower,</i> | <i>Aylesford,</i> | |

Then it was proposed to insert in the second Question, immediately before the last Paragraph Words of the first Question, except those in the Parenthesis, viz. " To which all other Councils are subordinate and accountable."

Which being objected to,

The Question was put, Whether these Words sh^d be inserted.
Contents 35

Not Cont. 62 It was resolved in the Negative

Dissentient

Because when these Words made Part of the Question first moved, they were allowed by every Lord who spoke in the Debate, to be proper and unexceptionable and the following Parenthesis only (" To which other Councils are subordinate and accountable") was objected to, as liable to a Misconstruction in another Place; we cannot therefore but be surprized, that when the Question, freed from that Shadow of an Objection (we conceive) was offered as an Amendment to the Motion for an Address, it should have been rejected; and more so, since the Negative passed upon it may be construed to imply, what we are persuaded no Lord in this House can intend, (whatever others may wish) " Resolution not to enquire, advise, or censure, even just Suspicions, imprudent Councils, or criminal Measures should require it."

Subscribed, &c. as before.

Eodem Die.

A Motion was made, " That an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions, that there be laid before this House Copies of all Letters written by Vice-Chancellor Vernon to the Commissioners for executing

Then it was proposed to add the following Words, to the former Motion by Way of Amendment. " So far as such Letters relate to any Supplies of Ships, Men, Stores, Ammunition, Provisions, or other Necessaries."

And Debate being had thereupon; the Question was then put, and the Motion carried with the Amendment.

Which produced the two following Protests, *viz.*

Dissentient, To the Negative put upon the first.

1st, Because we conceive, that the calling for all Instructions given to Generals and Admirals, is not only proper and precedent, but is also a necessary Step towards the Exertion of our Privilege, as hereditary Counsellors for advising the Crown, which Privilege can be properly exercised only in Matters depending. And, if from pretended Apprehensions of unreasonable Discoveries, Instructions are to be kept secret from this House, till after they have had their Effect, the Weakness or Guilt of the Measures of an Administration will appear probably too late to punish the Offenders, but certainly too late to prevent the Mischief.

2^{dly}, Because we do not find any Negative put upon Motions for Instructions before the Year 1721; from which Time, indeed, Instructions began to be of such a Nature, that we do not wonder their Authors desired to conceal them. The Instructions by which our Fleet lay in shameful Inaction before *Gibraltar*, when besieg'd, and suffered the Enemy's Ships to bring Ammunition and Provisions to their Army, and those by which three Admirals, about thirty Captains, above one hundred Lieutenants, and four thousand private Seamen, perished most ingloriously at the *Bassamentos*, create, as we conceive, a just Suspicion of all subsequent Instructions flowing from the same Source, and, in our Opinion, evince the Necessity of the strictest Enquiry, and most ample Informations in this important Conjunction.

3^{dly}, Because the Motion under the Limitations which accompanied it, was not even liable, as we apprehended, to the modern Objection of making improper Discoveries of future Designs; and it is impossible to conceive, that when Admiral *Vernon* sailed from hence with so small a Force as five Ships only, and be-

fore the long-wish'd-for Declaration of War, that his Instructions could contain any Thing more than Orders for Reprisals: Since, considering his insufficient Force, any Orders to attempt even what he so happily and unexpectedly executed, would have been contrary to the Genius, and inconsistent with the too long-experienced pacific Disposition of the Administration.

4^{thly}, Because, that as the *West Indies* were allowed by all Lords in the Debate to be the proper Scene of Action, we think it our Duty more particularly to attend to the Conduct of the Administration in those Parts; especially since, from the Time of the Declaration of War, till very lately, that important Scene of Action seems to have been neglected or forgot; while, as we apprehend, the slightest Alarms have been fondly credited as Reasons for keeping our numerous Forces at home, to the Oppression of the People; whereas a small Proportion of them, timely employed in the *West-Indies*, against a then unprepared and unprovided Enemy, might probably have enabled Vice-admiral *Vernon* to have brought this just and necessary War to a speedy and happy Conclusion.

5^{thly}, Because we apprehend that the Denial of these necessary Lights in the first Step of the Enquiry, not only casts a Damp upon the Enquiry itself, but must also lessen the Weight of any Resolutions that may be taken in the Course of it. The Nation that so unanimously expects and calls for an Enquiry into a Conduct, which at best seems to them unaccountable, if not blameable, will be confirmed in whatever Suspicions they might entertain, when the Lights necessary to remove those Suspicions are denied; and should we come to any Vote of Approbation, such a Vote may perhaps be misconstrued to be an influenced Compliance to the Administration, the dictated Result of a pretended Enquiry founded only upon imperfect Facts, and partial Representations.

| | | |
|------------------------------|----------------------|----------------------|
| <i>Bathurst,</i> | <i>Chesterfield,</i> | <i>Carlisle,</i> |
| <i>Bridgewater,</i> | <i>Middleton,</i> | <i>Aylesford,</i> |
| <i>Willoughby de Brooke,</i> | <i>Thanet,</i> | <i>Denbigh,</i> |
| <i>Bristol,</i> | <i>Greenwich,</i> | <i>Westmoreland,</i> |
| <i>Shaftsbury,</i> | <i>Cobham,</i> | <i>Haverfbam,</i> |
| <i>Talbot,</i> | <i>Litchfield,</i> | <i>Hallifax,</i> |
| <i>Gayer,</i> | | |

To the Amendment made to the second :

Dissentient.

Because we conceive those restrictive Words will prevent the House from receiving that Information which we think absolutely necessary : For if Vice-Admiral *Vernon*, in any of his Letters, has given it as his Opinion (as it is generally believed he has) that with a moderate Number of Land-Forces he could have made such important Conquests in *North-America*, as would have brought our Enemies before this Time to sue for Peace, this House had, as we apprehend, a Right to see such Letters, without which, we conceive, this Enquiry can only tend to detect the Negligence or Corruption of inferior Officers, and the capital Errors of the Ministers themselves may remain concealed.

Signed as before ———

Die Martis, 8^o Decembris, 1740.

A Motion was made, “ That Copies of the several
“ Instructions given to Rear-Admiral *Haddock*, from the
“ Time of his sailing from *England* in the Year 1738,
“ to the 24th of *June* last, be laid before this House.”

And after Debate had thereupon, the Question was
Contents 41. then put upon the said Motion.

Not Cont. 58. And it was resolv'd in the Negative.

Dissentient.

“ 1. Because we conceive that there never were In-
“ structions more necessary to be examin'd, than those
“ contain'd in this Question, in order to enable us to
“ discharge our Duty, both as Countessors to his Majesty,
“ and Guardians of the Nation.

“ The known and astonishing Inaction, for the Space
“ of above Two Years, of a great and powerful Fleet,
“ fitted out and maintain'd at an immense Expence to
“ the Nation, fixes a heavy Charge either upon the Com-
“ mander of that Squadron, or upon those who gave
“ him his Instructions. But when we compare the ex-
“ perience Courage and Abilities of Rear-Admiral
“ *Haddock*, upon all former Occasions, with the inglo-
“ rious Instructions given by this Administration to the
“ several Admirals employ'd for these last Twenty Years,
“ we cannot, as at present inform'd, but impute this

“ un-

“ unaccountable Inaction to the Weakness or Pusillanimity of those, whose Instructions, we are persuaded, he with Concern obey'd. And we are confirm'd in this Opinion, by his being still continued in that Command, which a Disobedience to his Instructions would have forfeited.

“ 2. Because we think it necessary, that the House should be fully inform'd, by what fatal Mistake, Negligence, or Design, the *Spanish Squadron at Cadix*, so long block'd up in that Port, while they were neither ready, nor the Season of the Year fit for 'em to go out, should have been, by the sudden withdrawing of our Fleet in the *Mediterranean*, permitted to sail without Molestation, as soon as they were fit, and the Season favourable. And we cannot, as at present inform'd, impute that unhappy Measure to Sir *Chaloner Ogle*, since, Orders of that great Importance ought to be conceiv'd in the clearest, plainest, and least ambiguous Terms; which, had he mistaken, he would not have been, as he now is, entrusted with the Command of so great a Fleet, and with the Interpretation of Instructions of still greater Consequence. Nor can we conceive, that the Communication of Orders relating only to Sailing, and the Change of Station, can sufficiently clear up a Point of that great Importance.

“ 3. Because we think that the stale Objection, that the Communication of these Instructions may discover to our Enemies intended Designs and Attempts, can have no Weight upon this Occasion, when the Reason for calling for those Instructions, is, because no one Attempt of any Kind whatsoever has been made upon our Enemies in the Course of above two Years; and it is not credible, that, if during that Time, any one Design had been intended, no one Attempt should have been made in Consequence of it. We therefore justly may, and only can conceive these Instructions, which we are not allow'd to apply for, to be of the same inactive Nature of those which we have formerly seen flowing from the same languid Source, to the equal Dishonour of his Majesty's Councils and Arms.

“ 4 Be-

" 4. Because we conceive, that the Denial of these
 " necessary Lights, puts a full Stop to any farther ef-
 " fectual Enquiry into the Conduct of the War; an En-
 " quiry so becoming this House, and so unanimously
 " called for by the Voice of the Nation, that outward
 " Appearances have at once raised the Curiosity, the
 " Astonishment, and the Concern of a brave and a loy-
 " al People, willing to sacrifice their Lives and Fortunes
 " for the Honour and Advantage of his Majesty and
 " this Kingdom, in the Prosecution of this just and ne-
 " cessary War: And we conceive that they ought, by
 " the strictest Enquiry, upon the fullest Informations,
 " to have been satisfied as to the past, and secured as to
 " the future. And we think, that all minute Enquiries
 " into the little Abuses of inferior Officers, over whom
 " it is the Duty of the Administration to watch, would
 " be only amusing and deceiving Mankind with the
 " Name of an Enquiry, and descending from our Digi-
 " nity of Counsellors of the Crown, and Checks of the
 " Administration, to the low Rank of *Inquisitors* into
 " the Conduct of petty and unprotected Offenders. We
 " therefore think, that we have discharged our Duty
 " to his Majesty and the Publick, in having moved for
 " for those Papers, which we considered as the Founda-
 " tions absolutely necessary for a proper and effectual
 " Enquiry. We here enter our Dissent upon the De-
 " nial of those Papers; the World must then judge of
 " the Conduct of the War, upon the Appearance of
 " Facts and Circumstances; with this considerable, ad-
 " ditional Circumstance, *That Lights were denied.*"

| | | |
|---------------------|-----------------------------|----------------------|
| <i>Litchfield,</i> | <i>Bridgwater,</i> | <i>Shaftsbury,</i> |
| <i>Carlisle,</i> | <i>Falmouth,</i> | <i>Abingdon,</i> |
| <i>Haverham,</i> | <i>Talbot,</i> | <i>Denbigh,</i> |
| <i>Hallifax,</i> | <i>Bathurst,</i> | <i>Middleton,</i> |
| <i>Tbanet,</i> | <i>Suffolk,</i> | <i>Aylesford,</i> |
| <i>Oxford,</i> | <i>Hereford,</i> | <i>Montjoy,</i> |
| <i>Greenwich,</i> | <i>Willoughby de Brooke</i> | <i>Ward,</i> |
| <i>Northampton,</i> | <i>Chesterfield,</i> | <i>Berkshire,</i> |
| <i>Gower,</i> | <i>Bristol,</i> | <i>Westmoreland.</i> |
| <i>Cobham,</i> | <i>R. Lincoln.</i> | |

Die Veneris, 9^o Decembris, 1740.

A Motion was made, That the augmenting the Army by raising Regiments, as it is the most unnecessary and most expensive Method of Augmentation, is also the most dangerous to the Liberties of the Nation.

Content 42 After Debate, the previous Question was
Not Cont. 50 put, whether the said Question shall be
now put?

It was resolved in the Negative.

On which Occasioned was entered, the following Protest.

Dissentient

1. Because we conceive, That this Motion ought not to have been laid aside by the previous Question, the Arguments urged in the Debate against our coming to this Resolution at this Time, being, in our Opinion, highly insufficient; since we cannot apprehend what further Lights could be had with Relation to the several Propositions contained in the Question, than those we received in the Debate, authorized by the Usage of almost all the Nations in *Europe*; nor were there any particular Papers pointed out, as necessary for the Information of the House; and we thought this the properest Time to come to this Resolution, before any Steps were taken as to the Method of making the intended Augmentation.

2. Because it was proved in the Debate, and universally admitted, that the Augmentation of our Land-Forces, by the raising of new Corps, was by near one Third, a more expensive Manner of Augmenting, than by additional Men to Companies. A Consideration which, in our Opinion, ought to have the greatest Weight, at this Time, when the Nation is engaged in a new War, and still groaning under all the Burthen of the last, though after thirty Years Peace.

3. Because, considering that the Oeconomy of Augmenting the Forces by additional Men in Companies was admitted, that the Utility of it was not disproved, we cannot help suspecting, that the raising new Corps at this Time, when the Election of a new Parliament draws so near, may be of a dangerous Tendency to the Constitution of this Kingdom, and relate more to Civil than

Military

Military Service, especially since there are now no Officers to be found (the Officers now remaining upon Half pay, having been already judged, by the Administration, unfit for Service) it is, in our Opinion, opening a Door to introduce a large Body of commissioned Pensioners. These Suspicions are strengthened by the Experience we have had, That no Rank has been either above, or below ministerial Resentment, and the Severity of Parliamentary Discipline; and we must with Concern observe, that the Honour of the Nation, and the Fate of this important War, has been intrusted to raw and new levied Troops, in order, as we apprehend, to keep the others at home, only for civil Purposes.

| | | |
|------------------------------|---------------------|----------------------|
| <i>Westmoreland,</i> | <i>Northampton,</i> | <i>Shaftsbury,</i> |
| <i>Suffolk,</i> | <i>Abington,</i> | <i>Chesterfield,</i> |
| <i>Willoughby de Brooke,</i> | <i>Halifax,</i> | <i>Carlisle,</i> |
| <i>Oxford,</i> | <i>Greenwich,</i> | <i>Bathurst,</i> |
| <i>Cobham,</i> | <i>Middleton,</i> | <i>Gower,</i> |
| <i>Bridgewater,</i> | <i>Hereford,</i> | <i>Bristol,</i> |
| <i>Litchfield,</i> | <i>Thanet,</i> | <i>Berkshire,</i> |
| <i>Aylesford,</i> | <i>Talbot,</i> | <i>Haverham.</i> |

Die Jovis, 28^o Januarii, 1740.

It was moved to resolve, That an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions to the proper Officers, to lay before this House, such Representations, as have been made by Vice-Admiral *Vernon*, in any of his Letters to his Majesty's Principal Secretaries of State, or to the Commissioners of the Admiralty, in relation to the Want of Ships, or more Men, or any Intimations of Service he could have performed, if he had been supplied with a few more Ships, and some Land-Forces.

The same was objected to, and after
 Contents 44 Debate thereupon, the Question was put,
 Not Cont. 71 Whether such an Address shall be presented to his Majesty?

It was resolved in the Negative.

Dissentient

Because we conceive, that the House entered into this Enquiry, with a View to form a proper Judgment on the

U

Conduct

Conduct of the War ; and some Extracts of Letters been laid before us, but such, as we apprehend, do even answer the Demand of the House much less than of the Enquiry ; yet it appears plainly, from the Extracts, that Admiral *Vernon* has made frequent grievous Complaints of the Insufficiency of the Sea and has represented them as fit only for a *Spithead Edition* : We have therefore the strongest Grounds persuaded, that in some of his Letters, he has made demands of more Ships, and more Men, tho' nothing relating to those Articles has been laid before us hitherto. Had he been sent out with a greater Force at first, or fresh Succours of Ships and Men with proper Stores, sent after him in due time, we are firmly of Opinion that he would have gained such further Advantage might long before now have proved decisive, but by the dilatory Proceeding of the Administration, as it appears, the Scene is much changed ; the *Spanish Fleet* has been suffered to sail out of their Ports, to carry Supplies of all Kinds to their Garrisons ; Opportunity has given them to repair their Fortifications in *America* ; which is still of more Consequence, as we fear, to prevent the Assistance of another Power, who was not ready willing, at that Time, to give us any Disturbance in our Parts.

| | | |
|---------------------|--------------------|----------------------|
| <i>Greenwich,</i> | <i>Berkshire,</i> | <i>Exeter,</i> |
| <i>Bathurst,</i> | <i>Shaftsbury,</i> | <i>Mansel,</i> |
| <i>Bridgewater,</i> | <i>Foley,</i> | <i>Thanet,</i> |
| <i>Carlisle,</i> | <i>Middleton,</i> | <i>Montjoy,</i> |
| <i>Bruce,</i> | <i>Suffolk,</i> | <i>Westmoreland,</i> |
| <i>Gower,</i> | <i>Haversham,</i> | <i>Ker,</i> |
| <i>Aylesford,</i> | <i>Buckleigh,</i> | <i>Cobham,</i> |
| <i>Beaufort,</i> | <i>Hereford,</i> | <i>Denbigh,</i> |
| <i>Abingdon,</i> | <i>Litchfield.</i> | |

Then it was proposed to order, that the Contents of the Secret Committee be appointed to enquire into the Conduct of the War, consisting of all the Lords of this House who are of his Majesty's most honourable Privy-Council. Which being objected, after further Debate, the Question was put upon the second Proposition, and,

It was resolved in the Negative,

Disfanti

Dissentient.

1st, Because the Necessity of Secrecy, and the Danger of communicating Matters of Importance, to so numerous an Assembly as this House, having been constantly urged as the only Arguments, for refusing the Lights absolutely necessary for carrying on, with any Hopes of Success, our Enquiry into the unaccountable Conduct of the War, we thought the proposing of this Committee would fully have obviated those Objections by confining the Knowledge of those Secrets, (if any such there be amongst those who by the Constitution are suppos'd and appointed to be informed of them) and the Negative put upon this Motion, gives us but too just Reason to suspect, that the most material Transactions, with relation to this War, have even been concealed from those, who, by their Situations, ought, in the very first Instance, to have been consulted.

2^{dly}, Because the so often urged Argument of Secrecy proves too much, and may as often without, as with Reason, be used in Bar of all Enquiries, that any Administration, conscious either of their Guilt, or their Ignorance, may desire to defeat. It may not only prove the Security, but the Cause of a Sole Minister, Secrecy, being undoubtedly best observed by one; and such a Sole Minister, may, by the same Reasoning, as well refuse the Communication of Measures to the rest of his Majesty's Council, and thereby engross a Power inconsistent with, and fatal to, this Constitution; and we cannot help observing, that such a timorous and a scrupulous Secrecy, is much oftener the Refuge of Guilt, than the Resort of Innocence.

Signed by the same Lords as before.

Die Martis 3^o Februarii, 1740-1.

The Order of the Day being read, for taking into Consideration the several Estimates of the Charge of the Guards, Garrisons, and other Land Forces, the Charge of his Majesty's Forces in the Plantations, *Minorca* and *Gibraltar*, and the Charge of Seven Regiments of Foot, and four Regiments of Marines, to be raised for the Year 1741, laid before this House, the 19th of *January* last.

It was moved to resolve, That an humble Address be presented to his Majesty, humbly representing to his Majesty, that this House cannot conceive the intended Augmentation of Land-Forces, to be necessary, either from the present Situation of Affairs in *Europe*, or from any Lights they have received ; such as have always been thought necessary by our Ancestors, to justify the laying any extraordinary Burthens on the Subject : And most humbly to beseech his Majesty, that if he should however think so great an Augmentation absolutely necessary, he will, at least, be graciously pleased, as well for the present, as for the future Ease of his Subjects, to order it to be made in the most frugal Manner, by such an Addition of private Men to the present Regiments, as his Majesty, from his own Wisdom and Knowledge of the Practice of most other Countries, may judge to be most proper for Military Service, and least dangerous to this Constitution.

Which being objected to, after long Debate thereupon, the Question was put, whether such an Address shall be presented to his Majesty ?

Content 49.
Not. Con. 67.

It was resolved in the Negative.

Dissentient'

1st, Because we conceive, that nothing less than an evident and absolute Necessity should prevail with us, to consent to any Augmentation of our Land-Forces, which in our Opinions are, at present, fully sufficient for any good Purposes, either abroad, or at home ; being very near equal to the highest Establishment, during the whole Course of the last general War ; the National Troops now subsisting (exclusive of those in *Ireland*) amount to 51515 Effective Men : Whereas our greatest Number of National Troops, in the last War, was but 67000 Men, including the Non-Effectives ; which, reduced to the Foot of the present Establishment, makes but 57000 Effective Men ; and the present intended Augmentation of 10325 Men, is such an Exceeding as can only be authoriz'd by the like public Dangers ; which Dangers not appearing to us, either from the Debate, or from any Information we have obtained, we are unwilling to trust more Force in the Hand of an Admini-

Administration (which as far as we are able to recollect) have not hitherto employ'd any they have been so trusted with to the Honour and Advantage of the Nation. Extraordinary Trust and Confidence ought, as we apprehend, only to be placed in such, who, by the Experience of their past Conduct, have justly established their Credit, and entitled themselves to be so trusted. But when we look back upon the several Augmentations within these last Twenty Years, demanded and granted upon Causes more strongly asserted, than clearly proved, but visibly without any good End ever attained; and particularly when we reflect that by a most unaccountable Fluctuation and Contrariety of Measures, a very great Augmentation was made in the Year 1727, to act in Conjunction with *France*, against the House of *Austria*, for whose Defence the present Augmentation is said to be principally intended: We thought it our Duty to endeavour to prevent any unnecessary Increase of our Land-Forces, not being influenced either by the pretended Apprehensions, or real Fears of an Administration, the Boldest in Domestic, but, as we apprehend, the most Pusillanimous in Foreign Transactions.

2dly, Because we conceive, that Dangers alledged from Disaffection at Home, are, in a great Measure, groundless; no Symptoms of such Disaffection having appear'd for many Years, and the Principles upon which it was formerly grounded, being almost universally worn out and exploded. And we find it highly necessary to distinguish between Disaffection arising only from the Conduct of the Administration, and Disaffection to his Majesty and his Royal Family, tho' some may desire to blend them. For had the present General Dissatisfaction at the inglorious, tho' burthenome Measures of the Administration, been, in truth, Disaffection to his Majesty, as hath been often falsely suggested by those who desire to confound his Cause with their own, twice the Number of Troops now proposed would not be sufficient to secure the Peace of the Kingdom; but, on the contrary, we are persuaded, that the Duty and Loyalty of the Nation to his Virtues, have check'd and kept the Dissatisfaction against the Administration within the due Bounds of Concern and Lamentation.

3dly, Because, considering the Advantage of our Situation, as an Island, and our Superiority at Sea, it is impossible for us to think ourselves in any Danger of an Invasion from *Spain*, even if those Fleets were now in their Ports, which we suffer'd them to send to *America*: Nor can we conceive, that about 28,000 effective Men, not actually in this Kingdom, with all the Advantages of Horse and Artillery, is not Force sufficient to secure us from any Body of Foot, that any other Power could possibly land on our Coasts by Surprise. And, as for any great Embarkation, it can neither be made on a sudden, nor in Secret; we must have timely Notice to provide superior Fleets, (which, in such a Case, we presume, would be allow'd to act) to strengthen our own Corps, and render such an Attempt wholly impracticable: In which Opinion we are the more confirmed, because that in the most glorious Year of the last War, when the Duke of *Marlborough* and his Army were in the middle of *Germany*, out of the Reach of giving us any Assistance at Home, it was not thought necessary, by the wise Administration of that Time, to keep above 9000 Men in this Island, for our Defence against *France*, then irritated by our Successes; and surely, three times that Number must be now abundantly sufficient, unless more are wanted for Purposes not thought of by former Administrations, nor yet openly avow'd by this.

4thly, Because, whatever Demands may be made upon us by our Allies on the Continent, we conceive may be answered by the Foreign Troops now in our Pay; and should any further Assistance to them be necessary, it will not only be cheaper, and safer to us, but more advantageous and agreeable to those Powers themselves, that we should furnish our Quota's in Money, with which they may raise a greater Number of Men than we are obliged to supply.

5thly, Because it has been undeniably proved, that this Method of Augmentation by new Corps, is, by one third, more expensive than that of adding private Men to Companies, the Expence of raising those 5705 Men amounting to 116,322 *l.* 14 *s.* 2 *d.* whereas 5780, raised by additional Men to Companies, with a Second

Lieu.

Lieutenant to each Company, would have amounted but to 86,992 *l.* 15 *s.* which would be not only a present Saving of 29,329 *l.* but a future saving of 10,134 *l.* *per Annum*, upon the Half pay of the Officers of those Seven Regiments, the few Officers taken out of the Half-pay only excepted. And we think, that at a Time when the Public Expence is so very considerable, the strictest Oeconomy is requisite, the better to enable a burden'd and indebted Nation to continue those Expences, that may be more necessary to be borne, than easy to be supply'd. And, as to the Advantage of the Service, the Facts plainly proved in the Debate, together with the Practice of most other Nations in *Europe*, and, in particular, of his Majesty's Electoral Dominions, convince us, that if this Augmentation was made by additional Men to Companies, with a proper Increase of Sergeants and Corporals, the Military Service, at least, for which alone it ought to be intended, would be better carried on than by the Methods now to be pursued.

6thly, Because Arguments drawn from the Usage of *France*, we conceive, do not hold with relation to us, it being well known, that the Expence of 150,000 *French* Troops do not amount to more than 500,000 *English*; that their Government, tho' once limited, is now absolute and Military. That the Poverty of their numerous Nobility forces them into the Army, where the Court is glad to engage and keep them in Depehdance; and that no Danger can arise to that Constitution from the Civil Influence, which may attend such an Establishment, their Parliament being only nominated by the Crown; and long since reduc'd, by Ministerial Arts, from their original Power and Dignity, to be no more than Courts of Justice and Revenue.

7thly, Because we apprehend that this Method of Augmentation by new Corps, may be attended with Consequences fatal in Time of our Constitution, by increasing the Number of Commissions which may be disposed of with Regard to parliamentary Influence only. And when we look back upon the Conduct of the Administration, in relation to military Affairs, we have but too much Reason to suspect, that parliamentary

Consideration have of late been the principal Causes of Favour and Disgrace. We have lately too, seen new raised, raw, and undisciplined Regiments sent abroad upon the most important Services, and others, seemingly much fitter for such Services, peaceably encamped at home, for no other Reason, as is generally supposed, than the different Situation of the respective Officers of the several Corps : But this, at least, is certain, that in all the new raised Regiments sent to *America*, there is but one single Member of Parliament which could hardly have been the Case of any equal Number of Regiments in the whole Service. And what further induces us to entertain those Suspicions is, that this Method of Augmentation, by one Third the most Expensive, and by no Means proved to be the most conducive to the Service, should be preferred at this Time, when an Oeconomy proportion'd to the Greatness of our Expences, seems particularly requisite ; since the War, by our Inaction hitherto, and the Advantages thereby given to the Enemy, may now probably be of long Duration, if not of doubtful Success. Our Distrust of the Motives of this Augmentation, which creates at once 370 Officers, which by the Removals in the Army may occasion three Times that Number of new Commissions, ought to be the greater, and our Care to prevent the ill Effects of it the more vigilant, so near the Election of a new Parliament ; a Crisis, when any Increase of Influence gained to a Minister, may give a decisive and incurable Wound to this Constitution. And we cannot forget that an Augmentation of 8040 Men was likewise made the very Year of the Elections of the present Parliament, by bringing over eight Regiments from *Ireland*, and by additional Men to Corps in *Britain*, which Time has since shewn were never intended for foreign Service, though they were said to be designed for the Preservation of the Dominions of the House of *Austria*, which we then lay under the same Engagements both of Interest and Treaties to defend. The Number of Officers in Parliament has gradually increased, and is now more considerable than ever ; and though we think the Gentlemen of the Army as little liable to undue Influence as any other Body of Men, yet we think it would be very impru-

imprudent to trust the very Fundamentals of our Constitution, the Independency of Parliaments, to the uncertain Effects of Ministerial Favour or Resentment. And as it is well known that the four eldest Officers of the Army, (the only Officers who have served in any high Rank abroad) are now displaced, without any Crime having ever been alledged against them, we have great Cause to dread, that an Army thus circumstanced, and thus influenced, would, in each Capacity, be fatal to our Liberties, since Ministerial Art in Parliaments can alone destroy the Essence of our Constitution, and open Violence alone, the Forms of it.

| | | |
|----------------------|----------------------|------------------|
| <i>Ward,</i> | <i>Montjoy,</i> | <i>Gower,</i> |
| <i>Buccleugh,</i> | <i>Aylesford,</i> | <i>Carlisle,</i> |
| <i>Denbigh,</i> | <i>Chesterfield,</i> | <i>Foley,</i> |
| <i>Westmoreland,</i> | <i>Halifax,</i> | <i>Thanet,</i> |
| <i>Exeter,</i> | <i>Shaftsbury,</i> | <i>Ker,</i> |
| <i>Bridgwater,</i> | <i>Cobham,</i> | <i>Hereford,</i> |
| <i>Greenwich,</i> | <i>Bathurst,</i> | <i>Mansel,</i> |
| <i>Bristol,</i> | <i>Litchfield,</i> | <i>Masbam,</i> |
| <i>Berkshire,</i> | <i>Beaufort,</i> | <i>Talbot,</i> |
| <i>Falmouth,</i> | <i>Macclesfield,</i> | <i>Haverham.</i> |
| <i>Abingdon,</i> | <i>Bruce,</i> | |
| <i>R. Lincoln,</i> | <i>Bedford,</i> | |

Die Mercurii 19^o Maii, 1740.

It was moved to resolve, that an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions to the proper Officers to lay before this House all the Powers, Instructions, Memorials, Letters and Papers relating to the Convention concluded between *Great Britain and Spain*, dated at the *Pardo, January 14, 1739, N. S.*

A Question was stated upon the said Motion. After Debate the Question was
 Contents 46. put, Whether such an Address shall be
 Not Cont. 67. presented to his Majesty?

It was resolved in the Negative.

Dissentient'

1st, Because we thought an Enquiry into a Transaction of such great Importance to the Honour, Trade and Rights of this Nation, not only necessary, but to-

tally free from all the Objections usually made to the Calling for Papers. The Convention having been concluded in *January*, 1739, and War having been since declared against *Spain*, so that we cannot conceive, that any Discovery prejudicial to this Nation, or advantageous to any other, can possibly result from an Examination into the minutest Particles of that Negotiation; but we rather apprehend from the manifest Unwillingness of the Administration to lay any such Lights before us, that Discoveries of another Nature would be the necessary Consequence of the Communication of the Papers called for upon this Question.

2dly, Because, when we compare the Conduct of the Administration thro' the whole Course of the *Spanish* Affairs, with several Circumstances that have accidentally appeared to the Public, we conceive every Part of that Conduct liable to just Suspicions of one Kind or other. The repeated Application of the Merchants, both to the Crown and to Parliament, for Reparation for the past Losses, and future Security for their Trade, the universal Cries of the Nation upon their insulted Honour and violated Rights, the several Addresses of Parliament to the Crown, and the gracious Answers and Assurances given by the Crown in Return, seem'd all to promise a just (and at that Time easy) Vengeance by the Force of our Arms, or an effectual Reparation of past and solid Security against future Injuries, by an advantageous Treaty of Peace, whereas a Convention only was concluded, by which a scanty and insufficient Reparation for our injured Merchants was stipulated, and our most essential and undoubted Rights of a free Navigation to the *West-Indies* without Search or Molestation, was at most referred to the future Discussion of Plenipotentiaries, if even it was ever mentioned at all.

3dly, Because it has been asserted in a public Paper dispersed all over *Europe* by the Court of *Spain*, that our Pretension to a free Navigation was never so much as mentioned by our Ministers, till the Conferences arising in Consequence of the Convention, and that the Demand was never made in Form till *July* 1739, which was after the Convention was broke by the Non-Payment of the Money stipulated on the appointed 24th of May,

May, and though we are far from asserting the Contents of such Papers to be true, yet, as they cannot but raise some Doubt, that alone, in a Matter of such great national Consequence, seems to be a sufficient Reason for a strict Enquiry, especially since we cannot see any Advantage that could arise to the King of *Spain* from asserting these Facts, if they were not true; but on the other Hand we see very strong Reasons why the Administration should desire to conceal them, if they are true.

4^{thly}, Because if the bare Supposition of Cases that may possibly exist, is to be used as an Argument why the House should not apply for Lights, we conceive that the Supposition of other Cases equally possible, and it may be more probable, is as good an Argument why the House should apply for such Informations; consequently, if we suppose that the Convention concluded at *Madrid*, *January* 14, 1739, was originally negotiated and executed at *London* in *August* 1738, with the *Spanish* Minister then residing here, but that upon *Spain's* inserting in the Body of the Ratifications of that Convention, an Act obliging our *South-Sea* Company to pay the Sum of sixty-eight thousand Pounds towards the Reparation to be made to our Merchants, which Act was then intended to be kept secret, though since discovered by the necessary Communication of it to the *South-Sea* Company, and their Non-compliance therewith; if we suppose that thereupon the same Treaty was re-executed by our Minister at *Madrid*, who was instructed at the same Time, to consent to an Act of the same Import, but varied only so as to conceal it; and if we further suppose that this Sacrifice of the *South-Sea* Company was originally proposed by one *English* Minister to the *Spanish* Minister, and upon his accepting it, rejected in an Office-letter by another *English* Minister, tho' afterwards brought into Execution; and if these Suppositions are in a great Measure confirmed by some of Mr. *Keen's* Letters, which have been made public; we conceive such Transactions ought not to be buried in Oblivion, and the Author and his Accomplices remain uncensured.

5^{thly}, Because we conceive the Argument of its being too late in Point of Time, can be of no Force, and only tends to prove that the House will think no Time proper.

proper for calling for such Papers. Some have refused to be called for by the House, because they related to the present Time, and whilst Matters were in Transaction, a Discovery might be dangerous; or because they related to future Operations, and also a Discovery of Designs might be detrimental. The present Motion related to Matters entirely past, and being rejected, we must give up all further Hopes of receiving any Lights, relating either to past, to present, or to future Transactions. Posterity must therefore be convinced, that we have been reduced to the Necessity of taking Matters in the Gross, and of weighing the Sum of Things, since the Particulars are hid from Sight.

| | | |
|---------------------|----------------------|----------------------|
| <i>Carlisle,</i> | <i>Bruce,</i> | <i>Bathurst,</i> |
| <i>Northampton,</i> | <i>Masbam,</i> | <i>Aylesford,</i> |
| <i>Suffolk,</i> | <i>Ker,</i> | <i>Macclesfield,</i> |
| <i>Manfel,</i> | <i>Falmouth,</i> | <i>Ward,</i> |
| <i>Gowver,</i> | <i>Westmoreland,</i> | <i>Hereford,</i> |
| <i>Cobham,</i> | <i>Exeter,</i> | <i>Litchfield,</i> |
| <i>Greenwich,</i> | <i>Clinton,</i> | <i>Beaufort.</i> |

Die Jovis 13^o Februarii, 1740.

The remarkable Debate, which lasted two Days on the following Question, *viz.* Whether an Address should be presented to his Majesty, that he might be graciously pleased to remove the right honourable *Robert Walpole*, Knight of the most noble Order of Garter, first Commissioner for executing the Office of Treasurer of the Exchequer, Chancellor and Under Treasurer of the Exchequer, and one of his Majesty's most honourable Privy-Council, from his Majesty's Confidence and Councils for ever.

| | | | |
|-----------|----|-------|---|
| Contents | 47 | } 59 | The Question being put upon Motion, it was carried in the Negative. |
| Proxies | 12 | | |
| Not Cont. | 89 | } 108 | |
| Proxies | 19 | | |

Dissentient

and destructive of Liberty in any Government whatsoever; and it plainly appearing to us, that Sir *Robert Walpole* has, for many Years acted, as such, by taking upon himself the chief, if not the sole Direction of Affairs, in the different Branches of the Administration, we could not but esteem it to be our indispensable Duty, to offer our most humble Advice to his Majesty, for the Removal of a Minister so dangerous to the King and the Kingdoms.

2^{dly}, Because we think it appear'd in the Debate, that, in many Instances, of infinite Consequence to the Interest of the Public, he has grossly abused the exorbitant Power which he illegally possessed himself of, particularly in the Management of the public Treasure. And this, we conceive, must plainly appear to every impartial Person who recollects, that, for these twenty Years past, this Kingdom has paid the largest Taxes that ever were imposed upon it in the Time of Peace; and yet that the public Debts remain much as they stood at the Time when this Gentleman first entered upon the Management of the Treasury; and that the Civil-List, also, the largest that was ever granted to the Crown, is, as we have the strongest Reasons to believe, considerably in Debt at this Time.

3^{dly}, Because we conceive it was plainly proved in former Debates, that the Army, so greatly expensive to this Kingdom, and which only was granted by Parliament for the Defence of it, had been managed, both as to Rewards and Punishments, in such Manner as to make it of no military Use, but on the contrary, to render it subservient, as we apprehend, to the very worst of Purposes, the influencing Elections without Doors, and Votes within.

4^{thly}, Because we are persuaded, that the vast Sums of Money, granted on different Heads for Sea-Service, cannot possibly have been faithfully applied; there having been as much Money granted by Parliament in the last six or seven Years, upon the several Heads applicable to the repairing and rebuilding our Ships, as would have been sufficient to rebuild the whole Fleet of *Britain* from the Keels of the Ships, and have put them thoroughly equipp'd to Sea: And yet it is most notoriously
true,

true, that, since this War began, a very great Number of Ships have appeared to be in the worst Condition for Sea-Service that ever they were known to be in the Memory of Man, and many of them scarcely fit for *Spit-head* Expeditions; Ships having sailed out of the River destin'd, as was pretended, for foreign Service, that have with Difficulty been able to swim into the Docks of *Portsmouth* or *Plymouth* for further Repairs.

5thly, Because we apprehend that, by the Conduct of Sir *Robert Walpole*, in relation to foreign Affairs during the Course of his Administration, the Balance of Power in *Europe* has been destroy'd; the House of *Bourbon* has been aggrandized in many Instances, particularly by the Addition of *Lorain*. The House of *Austria* has been depress'd by the Loss of Part of the Duchy of *Milan*, and the whole Kingdoms of *Naples* and *Sicily*: And if such a Change in the System of *Europe*, occasioned by the Misconduct of any Minister whatsoever, would be criminal, we cannot think it the less so in one who join'd in the Prosecution of the Authors of the Treaty of *Utrecht*, upon the particular Charge of having reduced the House of *Austria* too low, and left the House of *Bourbon* too powerful.

6thly, Because it is a Fact not to be contradicted, that the *Spaniards* were permitted quickly to possess themselves of the Land belonging to our most important Forts of *Gibraltar*, which this Kingdom was in Possession of, by virtue of the Treaty of *Utrecht*, till the last Siege of that Place, by which Permission Fortifications were erected, and Batteries rais'd upon the said Ground by the *Spaniards*, whereby the Use of the advantageous Bay of *Gibraltar* is lost to *England*, and our Ships ever since forced to anchor both inconveniently and dangerously under the Walls of the Town; and what naturally raises the strongest Suspicions in us of this unwarrantable Proceeding, is, that a *British* Admiral, soon after, was at *Cadix* with a powerful Squadron of Ships of the Line, at the Time the *Spaniards* thus unjustly broke their Treaty, and that Admiral quietly and undisturbed left them in Possession of that Ground, and convoyed their Troops to take Possession of the Dominions of *Tuscany*.

7thly, Because the Papers upon the Table, delivered to this House from the Commissioners of the Customs do plainly prove, that Sir *Robert Walpole*, by publicly conniving for many Years at the Trade carried on with this Nation from the Port of *Dunkirk*, has given up the 9th Article of the Treaty of *Utrecht*, which we cannot but look upon as a high Misdemeanour, and the greater Crime in him, that no Man whatsoever declared himself with more passionate Zeal than he did, against the Authors of the Treaty of *Utrecht*, for having favoured *France* in most of the Articles in it, which were incontestably stipulated for the Interest of this Crown and Nation.

| | | |
|----------------------------|----------------------|--------------------------|
| <i>Bridgwater,</i> | <i>Westmoreland,</i> | <i>Macclesfield,</i> |
| <i>Litchfield,</i> | <i>Halifax,</i> | <i>R. Litchfield and</i> |
| <i>Talbot,</i> | <i>Buccleugh,</i> | <i>Coventry,</i> |
| <i>Bruce,</i> | <i>Mansel,</i> | <i>Cobham,</i> |
| <i>Clinton,</i> | <i>Denbigh,</i> | <i>Falmouth,</i> |
| <i>R. Lincoln,</i> | <i>Berkshire,</i> | <i>Aylesford,</i> |
| <i>Beaufort,</i> | <i>Carlisle,</i> | <i>Bathurst,</i> |
| <i>Exeter,</i> | <i>Haversham,</i> | <i>Abingdon,</i> |
| <i>St John de Bletsoe,</i> | <i>Ward,</i> | <i>Greenwich,</i> |
| <i>Gower,</i> | <i>Chesterfield,</i> | <i>Bristol,</i> |
| <i>Bedford,</i> | <i>Hereford,</i> | |

Then the previous Question was put and carried. Upon which the following Protest was enter'd.

Dissentient

Because we think this Question ought not to have been put at this Time, for though the Proposition contained in it is undoubtedly true in itself; yet we apprehend it to be no wise applicable to the Point which had been so long debated the same Day. For we conceive that public Utility may render it necessary that a Person should be removed from an Office, and yet that Removal cannot be deemed a Punishment; for Instance, in the Case of Incapacity. Surely then, wilful Neglects, Breach of Duty, and evident Malversation in an Office, may justly require this great Council of State to present an humble Address to his Majesty for the Removal of any Person guilty of such Crimes, in order to prevent public Detriment. And we cannot apprehend, that the Motion which occasioned the former Debate, was by no Means void

void of Proofs, since the Treaties and Papers referred to (being as Records in the Possession of the House) and the Notoriety of many Facts alledged, were, in our Opinion, equal to a Cloud of Witnesses. For these Reasons, although we agree to the Matter contain'd in the Question, and, acting in our judicial Capacity, would never err from the Rules laid down in it, yet we cannot but wish the Question had been laid aside, lest a wicked Minister hereafter should think himself secure in his Office, if he cannot be brought personally to answer at the Bar of this House, and Witnesses *Viva voce*, cannot be produced.

Signed by the Names as before, with the Addition of *Sandwich*.

Die Martis 26° Februarii, 1740-1.

The Order of the Day being read for the second Reading of the Bill entitled, *An Act for the better securing the Freedom of Parliaments by limiting the Number of Officers in the House of Commons*. The said Bill was read a second Time, and it being mov'd to commit the Bill, the same was objected to. After Debate, the Question was put, Whether the said Bill shall be committed?

| | |
|--------------|--|
| Contents 44 | It was resolved in the Negative. |
| Not Cont. 63 | <i>Northampton, Shaftsbury,</i> <i>Stanhope, Clifton.</i> |

Dissentient

1st, Because we conceive, that our Constitution itself points out this Bill, as one of its principal Securities; a due Poize and Independency of the three several Constituent Parts of the supreme legislative Power, being required by the Spirit of our Constitution, and absolutely necessary to its Existence. If any one of these becomes dependent on the other, the Constitution is dangerously altered: But if any two become dependent on the third, it is totally subverted, and the wisest Establishment that ever was formed of a free Government, shrinks and degenerates into a *Monarchial* and *Aristocratical*, or *Democratical* Faction. We therefore think we cannot be too careful in providing against whatever may, at any
Time

Time, affect this just Poize, and necessary Independency of the three Estates. And this Caution seems the more requisite, now, when, from the inevitable Variation of Things, Employments are become exceedingly numerous, and are yet further artfully split, divided, subdivided, and encreased in Value, in order to add both Extent and Weight to their Influence. Two hundred Employments are distributed in the present House of Commons; a dangerous Circumstance! And which, if it could have been foretold to our Ancestors even in the latter End of the last Century, the Prediction would have been rejected by them as Chimerical, or, if believed, lamented as fatal; and should the Number of Employments continue to encrease in the same Proportion, even we may live to see, for want of this Bill, a constant Majority of Placemen meeting under the Name of a Parliament, to establish Grievances instead of redressing them; to approve implicitly the Measures of a Court without Information; to support and screen the Ministers they ought to controul or punish, and to grant Money without Account, or it may be, without Bonds. In which Case, the remaining Forms of our Constitution would, by creating a fatal Delusion, become our greatest Grievance.

2dly, Tho' we don't absolutely assert, That Employments necessarily must, yet we cannot suppose, that they never will, influence the Votes and Conduct of the Gentlemen of the House of Commons; for such a Supposition would be equally conclusive against all the Acts of Parliament now in Force, limiting the Number of Officers of any Kind in that House; and, in a Case of such Importance, we think it would be the highest Imprudence, to trust the very Being of our Constitution to bare Possibilities; especially if an Experience (which we rather chuse to hint at than enlarge upon) should give us just Reason to suspect, that former Parliaments have felt the Effect of this baneful Influence, almost all Persons in Employments having voted invariably on the same Side of the Question, often against the known and signified Sense of their Constituents, and sometimes perhaps even contrary to their own private Declarations; and no
sooner

sooner did they presume to deviate from the ministerial Track, than they were divested of those Employments that filled of their intended Influence. But, admitting that the present House of Commons has kept itself most continually pure from such Pollution; yet we think it necessary, not to expose future Parliaments to such a Trial, nor the Constitution to the Uncertainty of the Decision.

But, because, though it should be granted, that this Bill would have restrained in some Degree the Liberty of the Electors, that Objection has no Weight upon this Occasion, every Law being, in some Degree, a Restraint upon the natural Liberty of Man, but yet justly enacted, whenever the Good of the Whole (which should be the Object of every Law) is promoted thereby; and we apprehend, that this Restraint is of such a Nature, that those only will be uneasy under it who intended to abuse the Liberty. The Votes of the Electors of *Great-Britain*, I am assured, would rarely concur in the Choice of Persons who were the avowed Creatures of a Minister, known Dependants on a Court, and utterly unknown to those who elect them. But if, in an Age, when Luxury invites Corruption, and Corruption feeds Luxury, there is too much Reason to fear, that the People may be prevailed upon, in many Places by a pecuniary Influence, to give their Votes to those whom their uninfluenced Sentiments would reject with Indignation and Contempt, we think it necessary to lay this just and constitutional Restraint upon the Liberties of some, as the only Means to preserve the Liberties of all. By former Acts of Parliament, the Electors are already debarred from electing Persons in certain considerable Employments; and in the *Act for preserving our Constitution*, by settling the Crown upon the present Royal Family, it was enacted, That no Person whatsoever in Employment should be capable of being chosen a Member of the House of Commons. Such was then the Spirit of Liberty, that even this total Exclusion could not be refused, nor could the Repeal of it afterwards be obtained, without enacting a Limitation of Placemen allowed to sit in the House of Commons, and a new Election of every Person who,

whilst

whilst he was a Member of that House, should accept of any Employment under the Crown; as likewise a Total (we wish we could say an Effectual) Exclusion of all Persons holding Employments erected since the passing of that Act; and there is no Reason to doubt, but that the same Spirit of Precaution would, upon the same constitutional Principles, have been carried much farther at that Time, could it then have been foreseen or imagined, that the Exclusion of some civil Officers would have been rendered useless, by the Introduction of so many military ones; and so many Persons in Employments, infinitely inferior, both in Rank and Profit, to those excluded by these several Acts, could ever have been by any Means elected into Parliament: And indeed it seems to us highly incongruous, that Inferior Clerks, and Attendants of Offices, who have not Seats in the Presence of their Masters, should be admitted to have Seats in the Legislature, and therefore become the Check and Controul of their Masters themselves.

4thly, Because we do not apprehend, that the Freedom of Parliament is now in the least secured by the Obligation laid upon all Members of the House of Commons, who accept any Employment under the Crown of being re-elected, Experience having shewn us, that this seeming Security is for the most Part become ineffectual, there being very few Instances of Persons failing in such Re-elections, tho' utter Strangers to their Electors; and it is natural to suppose, that, when the Means of corrupting are greater, the Success of the Candidate recommending himself, by Corruption only, will not be less.

5thly, Because we observe with Concern, that a Bill of this Nature has been already thrice rejected by this very House of Commons, and not been allowed to be committed, so as to have it known how far it was proposed to extend, which in our Opinions, implied a firm Resolution not to admit of any further Exclusion of Employments whatsoever: Whereas, in this last Session of this Parliament, this Bill was sent up to us, after having passed thro' all the Forms of the other House without the least Opposition. This we conceive can only proceed either from their Conviction at last of the Necessity

of such a Bill, of which they are surely the properest Judges, or in Compliance with the almost universal Instructions of their Constituents, whose Voice we think ought to have some Weight even here; or lastly, to delude their Constituents themselves, by tacitly consenting to what they were either told, or hoped, this House will refuse. And in this Case we apprehend, That a Confidence so injurious and dishonourable, ought to have been disappointed from a just Sense of the Contempt thereby shewn of the Credit, Weight, and Dignity of this House.

6thly, Because we think it particularly seasonable, so near the End of this Parliament, to provide for the Freedom and Independency of the next: And as we consider this Opportunity as the only one we are likely to have, for some Years at least, to do it, it is with the greater Concern that we see this Bill laid aside, rather by a Division than a Debate, and by Numbers rather than Arguments. But however unsuccessful our Endeavours have been for the future Security of this Constitution; however unavailing our Desire of enquiring into past and present Transactions; however fruitless our Attempts to prevent future Mismanagements, by a Censure of the past, and the Removal of the Author of them: We have at least this Comfort of transmitting our Names to Posterity, as dissenting from those Measures of which the present Age sufficiently testifies its Dislike, and of which the next may too probably feel the fatal Consequences.

| | | |
|----------------------|----------------------|----------------------|
| <i>Abingdon,</i> | <i>Warrington,</i> | <i>Ward,</i> |
| <i>Bridgewater,</i> | <i>Bruce,</i> | <i>Mansel,</i> |
| <i>Haverham,</i> | <i>R. Litch. and</i> | <i>Cobham,</i> |
| <i>Macclesfield,</i> | <i>Coventry,</i> | <i>Chesterfield,</i> |
| <i>Greenwich,</i> | <i>Carlisle,</i> | <i>Masbam,</i> |
| <i>Hereford,</i> | <i>Talbot,</i> | <i>Hallifax,</i> |
| <i>Aylesford,</i> | <i>Gower,</i> | <i>Denbigh.</i> |

I dissent for all the above Reasons, except the last.

Foley.

Die Martis 9^o Martii, 1740-41.

Hodie 3^a vice lecta est Billa, An Act for punishing Mutiny and Desertion, and for the better Payment of
the

the Army and their Quarters, Then the Question was put, whether this Bill shall pass? It was resolved in the Affirmative.

Dissentient

Because it does not appear to us, that the Forces which are now kept up within this Realm, are to be employed to annoy our Enemies abroad; and we are satisfied, the Affections of the People to his Majesty and the Protestant Succession are such, that there can be no Occasion for them to keep this Nation in Awe.

*Abingdon, Litchfield, Warrington,
Aylesford, Carlisle.*

Die Martis 22° Decembris 1741.

A Motion being made made, that an humble Address be presented to his Majesty, that he will be graciously pleased to give Directions, that there be laid before this House, Copies of all Memorials, Representations, Declarations and Letters, which have been sent either to his Majesty or his Ministers, by the Queen of *Hungary* or her Ministers, or by his Majesty or his Ministers, to the Queen of *Hungary* or her Ministers, with the respective Answers to such Memorials, Representations, Declarations and Letters: And of all Letters wrote by either of his Majesty's Principal Secretaries of State, or any other of his Majesty's Ministers, to his Majesty's Minister residing at the Court of the Queen of *Hungary*, or by the said Minister to either of his Majesty's Principal Secretaries of State, or any other of his Majesty's Ministers, relating to the State of the War in the Empire, and the Supports and Interests of the House of *Austria*, since the Death of the late Emperor.' The same was objected to: And a Question being started thereupon, it was propos'd after the Word [*Declaration*] in the former Part of the Question, to leave out these Words [*and Letters*] which being objected to: After Debate, the Question was put, whether those Words should stand Part of the Question? It was resolved in the Negative.

And it being proposed to insert, after the Word [*Ministers*] mentioned in the 4th Place [" and of all Letters which have been sent to his Majesty's Minister's " by

“ by the Ministers of the Queen of *Hungary*.”] The same was objected to.

Then it was proposed to leave out these Words [“ and of all Letters wrote by either of his Majesty’s Principal Secretaries of State, or any other of his Majesty’s Ministers, to his Majesty’s Minister residing at the Court of the Queen of *Hungary*, or by the said Minister to either of his Majesty’s Principal Secretaries of State, or any other of his Majesty’s Ministers.”] Which being objected to : The Question was put, whether those Words should stand Part of the Question ? It was resolved in the Negative. Content 32, Not Content 29.

Dissentient

Because the leaving out those Words in the Motion invalidates the Address to the greatest Degree, by denying the necessary Lights to see into Affairs of the utmost Concern to the Nation, and Transactions most probably in Agitation between *Great Britain* and the Queen of *Hungary*, inasmuch as there is neither Matter nor Means sufficient to give his Majesty our best Advice upon, although so graciously asked from the Throne at this critical Conjunction. Besides which, it is apparently putting such a Check and Restraint upon the Privilege of the House of Peers in wording Addresses to the King, as may prove of the utmost Prejudice and Loss to both, which the Nation in general would in Consequence be Sufferers by, should this be made Use of by ministerial Artifice or Power, at any Time to come, as a Precedent to defeat or annul Addresses of this Kind, whereon the Freedom and Safety of his Majesty’s Person, and the Protestant Succession and Government so eminently depend.

Haverham.

Then a Motion was made for the like Papers relating the *French King*, which was carried in the Negative by 60 against 30. To which his Lordship likewise dissented for the same Reasons.

Die Martis 28° Januarii, 1741.

The Order of the Day being read for resuming the adjourned Debate, which arose Yesterday upon a Motion

tion made in Relation to the Officers who are absent from *Minorca*.

Contents 69 And the Proposition being again made, and
Not Cont. 35 the Question being put thereupon.

It was resolv'd in the Negative.

Then a Motion was made, that it appearing to this House that the Governor and Lieutenant-Governor of the Island of *Minorca*, and the Lieutenant-Governor of Fort St. *Philip*, and several other Officers upon the Establishment there, are now absent from the said Island, to the manifest Prejudice of the Publick-Service; resolved that an humble Address be presented to his Majesty, to give Directions, that the Officers upon the Establishment who are absent, as aforesaid, do forthwith repair to their respective Posts, and that his Majesty, out of his Royal Care of so important a Place, will be pleased to give the strictest Orders, that for the future to prevent any such Prejudice to the Publick Service, such a Number of the said Principal and other Officers as shall be sufficient to perform the Services belonging to the said Establishment, be constantly resident on the Place: The same was agreed to; and order'd to be presented to his Majesty by the Lords with white Staves.

A Negative being put upon the first Motion, the following Protest was enter'd.

Dissentient

1st, Because we conceive, That as the Fact stated in the former Part of the Question, appear'd plainly from the Paper laid before this House by the proper Officer, and neither was nor could be controverted by any one Lord, the Censure contain'd in the latter Part of the Question was not only just, but as gentle as so evident a Neglect of so important a Place, at so critical a Time, could possibly allow. The Principal, if not the only Argument made use of by those Lords who opposed the Motion was, That the Censure was general, and pointed at no particular Persons, which we rather apprehend to be a Proof of the Justice and Moderation of that Censure, as it could then only light upon the Guilty whoever they were; and we are inclined to believe, that had the Censure been applied to any particular Persons, the contrary Argument would have been urged, and the Inju-

Injustice of a particular Censure, without Proofs, sounded high, tho' possibly, at the same Time, the necessary Means of getting at those Proofs might have been render'd difficult: That out of nineteen Officers paid upon the Establishment of *Minorca*, fourteen were absent, among whom were the Governor, the Deputy Governor, and the Governor of Fort *St Philip*, was a Fact disputed by none, tho' the slightest Censure of it was oppos'd by the Majority of the House. We therefore hope, that Posterity, to whom we thus appeal, will not only approve of our Conduct in this Motion, but will likewise, from the ill Success of it, find Reasons to excuse our not attempting many others of the like Nature.

2dly, Because, when we consider the tender Apprehensions of the Administration for the Island of *Minorca*, in the Year 1740, when, upon Information received, that a few Troops were marching to the Coasts of *Catalonia*, and a few *Tartanes* assembled in the Port of *Barcelona*, Orders (possibly obscure from that Precipitation which the Emergency requir'd) were sent to our Admirals in the *Mediterranean*, to provide immediately for the Defence of that Island, even by going there with their whole Force, if necessary; by the Execution or Mistake of which Orders, the *Spanish* Squadron was suffered to sail from *Cadix* to the *West-Indies*, to the imminent Danger of our Fleets and Possessions there; We cannot well account for that profound Security in which the Administration seem'd to be the last Year, with regard to that valuable Possession, when an Embarkation of fourteen or fifteen thousand Men, and above two hundred Transport-ships was publicly preparing at *Barcelona*, and consequently within eight and forty Hours sail of *Minorca*, which Embarkation soon after went undisturb'd to *Italy*: But we fear this inconsistent Conduct may give too much Credit to Insinuations lately scatter'd in Publick, that the *British* Ministers were as secure that *Minorca* would not be attack'd by the *Spaniards*, as the *Spanish* Ministers were that their Embarkation would sail to *Italy* undisturb'd by our Squadrons in the *Mediterranean*.

3dly, Because it appears, That about the same Time that Major General *Anstruther* left that Island, by Leave
from

from the Secretary at War, which was on the 15th of *February* last, Admiral *Haddock* informs the Secretary of State, in a Letter of the 10th of the same Month, that by the latest Letters from Mr. Consul *Birtles*, he mentions, " That a *Spanish* Embarkation is actually intended, " and tho' the first Design was on a sudden dropp'd, the " last Intelligence declares the same to be renew'd again ;" which Information, we conceive, was sufficient to have excited greater Apprehensions for the Danger of that Island, than seem to have been entertained, since no one Step appears to have been taken thereupon for its Defence, or any Leave of Absence recalled ; but the whole Government was suffered to devolve to a Lieutenant Colonel of one of the Regiments there.

4thly, Because it appear'd by the Examination of Major General *Anstruther* at the Bar, that when he left *Minnorca* about the 15th of *February* last, above 700 Men were wanting to complete the Regiments there, and near the same Proportion of Officers absent: That the private Soldiers were so uneasy at having been there so long, that many destroyed themselves from Despair, and many maimed themselves to get discharged. That should the Island be attacked, the Inhabitants would, in his Opinion, certainly join the *Spaniards*: That in his Opinion too, that Island was always in Danger when our Enemies were superior in the *Mediterranean*, which has been for some Time, and is still the Case. All which Circumstances concur to prove the Danger, the Neglect, and the Justice of censuring such a Neglect at such a Time.

5thly, Because it was said in the Debate by those whose high Stations best enable them to know, " That a " general Relaxation of Government, and Abuses of " this Nature, were the Vices of the present Age." A melancholy Truth ! which we conceive is so far from being an Argument for Impunity, that it evinces the Necessity, at least, of censuring such as we can attain to the Knowledge and Proofs of. And indeed we have but too much Reason to believe, that the several Abuses committed in the several Branches of the Government, unpunished at least, if not conniv'd at, have already pro-

duc'd. Effects too sensibly felt by this Nation; which Abuses, from the Nature of Things, necessarily multiply themselves, and if not speedily check'd, must soon forge a Chain of reciprocal and criminal Dependency, too strong for even the Authority of this House to break, and too heavy for the Constitution to bear.

6bbly, Because the Motion for an Address, offered in Lieu of this Question, in which the same Fact is stated in its full Extent, but without the least Censure annexed to it, is, in our Opinion, not only unprecedented, but inconsistent with the Honour and Dignity of this House, as it may seem calculated to screen the Guilt it avows; and as it may be thought to intimate future Impunity for publick Crimes, if balanced by private ministerial Merit. Artifice may elude Inquiries, or prevent Detection; Lenity may censure a Crime, yet spare the Criminal; but Mankind, we fear, may be at a Loss to account for what Motives so criminal a Neglect, fully stated, proved and admitted, could escape without Censure; or may ascribe it to such as would affect the Reputation, and consequently lessen the Authority of this House.

| | | |
|----------------------|----------------------|--------------------------|
| <i>Sandwich,</i> | <i>Dunk,</i> | <i>Halifax,</i> |
| <i>Greenwich,</i> | <i>Carlisle,</i> | <i>Shaftsbury,</i> |
| <i>Northampton,</i> | <i>Mansel,</i> | <i>Chesterfield,</i> |
| <i>Leigh,</i> | <i>Aylesbury,</i> | <i>Falmouth,</i> |
| <i>Craven,</i> | <i>Talbot,</i> | <i>Abingdon,</i> |
| <i>Cobham,</i> | <i>Ward,</i> | <i>Bridgewater,</i> |
| <i>St John,</i> | <i>Oxford and</i> | <i>Exeter,</i> |
| <i>Foley,</i> | <i>Mortimer,</i> | <i>Denbigh,</i> |
| <i>Litchfield,</i> | <i>Beaufort,</i> | <i>Ric. Lic. and Co.</i> |
| <i>Haverham,</i> | <i>Berkeley de</i> | <i>Suffolk,</i> |
| <i>Westmoreland,</i> | <i>Stratton,</i> | <i>Thanet,</i> |
| <i>Batburst,</i> | <i>Ric. Lincoln,</i> | <i>Clinton,</i> |
| <i>Hereford,</i> | <i>Gower,</i> | <i>Aylesford,</i> |
| <i>Clifton,</i> | <i>Macclesfield,</i> | <i>Bedford.</i> |

Die Luna 20^o Martii 1742.

A Bill, which took its Rise from the Complaints of the Merchants, to the House of Commons, entitled, *A Bill for the better securing the Trade and Navigation of this Kingdom in Time of War*, was read. Which Bill was brought in that House on Account of the ob-

stinate Behaviour of *Nicholas Paxton* and others, before the secret Committee.

And Debate being had thereupon, the Question was then put, Whether the Bill should be committed ?

It was resolved in the Negative.

| | | | | | |
|----------|----|------|--------------|----|-------|
| Contents | 47 | } 37 | Not Contents | 92 | } 109 |
| Proxies | 10 | | Proxies | 17 | |

Dissentient'

Macclesfield.

1st, Because the rejecting of this Bill, founded, as we conceive, upon Reason and Justice, warranted by Precedents, authorized by Necessity, and called for by the general Voice of the Nation, may appear a manifest Obstruction to public Justice, in the present great and important Case, and a most certain Defeat of it for the future, in all Cases of the like Nature.

2^{dly}, Because it is an uncontroverted Maxim of the Law of *England*, That the Publick has a Right to every Man's Evidence, and yet, by the same Law, no Man is obliged to accuse himself; and as the Accomplishes of Guilt are frequently the only Witnesses of it, we conceive, that both Prudence and Justice point out this Method of Impunity to some, as absolutely necessary towards discovering the Guilt of others; and thereby dissolving those Confederacies, which, formed by common Guilt, can only subsist whilst they are cemented by common Danger. From these undeniable Principles we apprehend this Bill ought to have passed, in order to preserve the Rights of the Public, and the Rights of Individuals.

3^{dly}, Because this Bill is justified by many Bills of a much stronger Nature, in Cases of much less Consequence to the Public, such as the Cases of *Sir Thomas Cooke*, the Masters in Chancery, *Sir Robert Sutton*, *Thompson*, and others, in some of which, the Persons indemnified, in order to give their Evidence, were, at the same Time, compelled, under severe Penalties, to give it. And as there is a Power not only of indemnifying, but rewarding, necessarily lodged in the Crown, in order to bring Criminals to Justice, by Evidence known to, and within the Reach of the Laws, so we apprehend, that in an Inquiry after Crimes, that may

affect the Being of the Whole, the People have a Right to the Exertion of that Power with which the Legislature is undoubtedly vested, to come at such Evidence as may make that Enquiry effectual to their future Security.

4thly, Because the Legislature has exercised this Power in many Instances, relating to particular Branches of the Revenue, in order to prevent Frauds, the Persons concerned in such Frauds being not only indemnified, but rewarded also; and for the private Utility of one Company, the Legislature, by the 9th of King George the First, after forbidding any Person to be concerned in promoting an *East-India* Company in the *Austrian Netherlands*, gives to our *East-India* Company a Power to prosecute, by Bill in Chancery, or Court of Exchequer, any Person whom they shall suspect, obliging such Person to make Discovery upon Oath, tho' such Discovery subjects him to a Forfeiture. As also for the better Discovery of Felonies the Legislature has thought fit by an Act, 5th of Queen Anne, to pardon any Person not only of the Felony discovered, but of all other Felonies he has ever been guilty of, upon his making a Discovery of two Persons who shall thereupon be convicted of any Burglary or Felony, and that Discoverer is also entitled to a Reward.

5thly, Because the rejecting this Bill may prove a dangerous Precedent of fatal Consequence to this Constitution, since, whenever this Nation shall be visited by a wicked Minister, those who shall have served him in defrauding and oppressing the Publick, and in corrupting Individuals, will be furnished with an Excuse for refusing their Evidence, their Danger will produce his Security, and he may enjoy with Safety the Plunder of his Country; nay, we even apprehend, that the rejecting of this Bill may be misunderstood by those who can make any Discovery, as if this House designed to discourage any Evidence whatsoever, that could affect the Person whose Conduct the Secret Committee was appointed, by the House of Commons, to inquire into. A Minister may be removed from his Place, and not from his Power; he may be removed from both, and not from the Favour of his Prince; nay, he may be de-
drived

prived of all three, and yet his Successor may think his Interest and future Safety, and his Prince may imagine his Authority, concern'd in protecting him from either Punishment or Enquiry. In any of which Cases all written Evidence, all Office-Proofs, will be secreted or refused; and if verbal Evidence be render'd impracticable too (which the rejecting of this Bill will furnish a Precedent for) we conceive we might as well have pass'd an Act of Indemnity to all future Ministers.

6^{thly}, Because we can by no Means agree to the Argument principally urged against this Bill, that there were not Proofs of Guilt against this Person sufficient to justify the passing it; whereas, in our humble Opinions, the Voice of the Nation, the Sense of the other House, and the lamentable Situation of this Kingdom, both at Home and Abroad, create Suspicions which not only justify, but even call aloud for Inquiry; which Inquiry must necessarily prove ineffectual, unless the proper Methods are taken to support it, of which we apprehend this Bill to be one, and a Proceeding so just, that no innocent Man would desire to avoid it, and no guilty one ought to escape it: Moreover the Reasons assigned by the Persons whose Behaviour gave Rise to this Bill, for refusing their Evidence, is a sufficient Implication that it would affect the Earl of *Orford*, since they admit it would affect themselves.

7^{thly}, Because we conceive that the rejecting this Bill may create great Disaffection in the Nation, to the Diminution of the Credit, and consequently of the Authority of this House, when the People find themselves disappointed in their just Expectations of having a strict Inquiry made into the Conduct of the Earl of *Orford*, which they have so long called for in vain, and hoped they had at last obtained. Groaning under the undiminished Load of National Debts and Taxes, notwithstanding a long Peace; trembling under the Terrors of multiplyg. in Penal Laws; deploring their sacrificed Honour, and their neglected Interests; the Balance of *Europe* overturned Abroad, and the Constitution endanger'd at Home; they call for Inquiry; they seek for Justice: they hope for Redress: The other House has taken the proper Steps to answer these Expectations: the Inquiry

begun there cou'd only have been rendered effectual in one material Point by this Bill ; which being rejected by this House, from whence they expect Justice and Redress, we fear their blasted Hopes, which, for a Time, may seem sunk into a slavish Despondency, may at last break out into Disorders, more easy, possibly, to foresee than to remedy.

| | | |
|----------------------|----------------------|-----------------------------|
| <i>Denbigh,</i> | <i>Chesterfield,</i> | <i>Oxford and Mortimer,</i> |
| <i>Bathurst,</i> | <i>Ward,</i> | <i>Thanet,</i> |
| <i>Foley,</i> | <i>Aylesford,</i> | <i>Westmoreland,</i> |
| <i>Abingdon,</i> | <i>Berkshire,</i> | <i>Gower,</i> |
| <i>Northampton,</i> | <i>Boyle,</i> | <i>Coventry,</i> |
| <i>Rockingham,</i> | <i>Greenwich,</i> | <i>R. Lincoln,</i> |
| <i>Dunk-Halifax,</i> | <i>Craven,</i> | <i>Falmouth,</i> |
| <i>Bedford,</i> | <i>Cobham,</i> | <i>Carlisle,</i> |
| <i>Ailesbury,</i> | <i>Sandwich,</i> | <i>Litchfield,</i> |
| <i>Beaufort,</i> | <i>Shaftsbury,</i> | <i>Leigh.</i> |
| <i>St. John,</i> | <i>Haversham,</i> | |

Die Mercurii 1^o Februarii, 1742-3.

The Order of the Day being read, for taking into Consideration the several Estimates of the Expence of the Forces in the Pay of Great Britain.

And after long Debate being had thereupon.

Contents 90

Not Cont. 35

It was resolv'd in the Negative.

Upon which the following Protest was enter'd,

Dissentient'

Gower, C. P. S.

Cobham,

1st, Because we apprehend, That the assembling an Army in *Flanders* last Year, without the Concurrence of the States General, was a Measure not only unwarranted by any Advice or Consent of Parliament, but directly repugnant to the declared Sense of the House of Commons in their Resolution of the 23^d of *March* last ; it not appearing to us, That any one Power, engaged by Treaty, or bound by Interest to support the Queen of *Hungary*, except *England* alone, had come in to give her any Assistance, or to co-operate with us in any Plan to which an Army in *Flanders* could be supposed to conduce ; and therefore the Support then promised by that House

House to his Majesty, upon an exprefs conditional Supposition of being joined by fuch other Powers, is fo far from authorifing a Measure entered upon in Circumftances totally different, that it plainly points out the Opinion of Parliament againft fuch and Undertaking.

2dly, Because the taking 16,000 *Hanoverians* into the Service of Great Britain, to act in Conjunction with the *Engliſh* Forces aſſembled in *Flanders*, without conſulting the Parliament upon an Affair of fuch an important and delicate Nature (altho' it was foreſeen and pointed out by the King to both Houſes of Parliament at the Cloſe of the laſt Seſſion, and is expreſly referr'd to in his Majesty's Speech at the Opening of this) ſeems to us highly derogatory to the Rights, Honour and Dignity of the great Council of the Nation, and a very dangerous Precedent to future Times.

3dly, Because the reſtoring the Ballance of Power in *Europe*, by raiſing the Houſe of *Auſtria* to its former Condition of Influence, Dominion and Strength, is an Object quite unattainable by the Arms of *Great Britain* alone: And for the attaining of which, no other Power has joined, or is likely to join with us in any offensive Engagements, either againſt the Emperor, or againſt *France*.

4thly, Because ſuch Aſſiſtance to the Queen of *Hungary*, as the Situation of her Affairs, and that of *Europe*, as well as the particular Intereſt and Policy of this Iſland require, would have been more properly given in Money, with much leſs Expence and Danger to us, with much more Effect and Advantage to our Ally. The 38,000 Men, now ſaid to be paid for her Service, coſts this Nation 1,400,000 l. one half of which Sum would have enabled her to maintain a greater Number of Men, capable of acting wherever her Affairs might require; ſo that above 702,000 l. ſeems to be wantonly lavish'd away upon this Occaſion, beſides the Lives of many of the Subjects of *Great Britain*.

5thly, Because we apprehend, that the Troops of the Eleſtor of *Hanover* cannot be employed to act in *Germany* againſt the Head of the Empire, whoſe Title and Cauſe have been avowed by the whole Body, in granting him an Aid of fifty *Roman* Months for his Support in this

very

very War, without incurring the Risque of such Consequences upon any ill Success, as neither consists with the Safety of *Hanover*, nor with the Prudence of *England*; in which Apprehension we are strongly confirm'd by those Troops not having acted in Opposition to Marshall *Maillebois*, at a Juncture of Time when such an Assistance, given to the Queen of *Hungary*, might have been decisive; and for losing which Opportunity, no other natural or probable Reason appears.

6thly, Because the assembling an Army in *Flanders*, not then attacked by the *French*, nor, as it appears to us, in any Danger of being attacked, could be of no Use to the Power we designed to assist, nor give any Hindrance or Terror to *France*, with regard to the Designs she was then pursuing; but may, in its future Consequences, probably tend to draw the Arms of that Crown into those Parts, where they can act with the greatest Advantage, and engage this Nation as Principals in a Land War, the Expence and Danger of which are much more certain and evident, than the Support we shall find in it from other Powers, or the Means we shall have of carrying it on.

7thly, Because we observed, with the utmost Concern, that while *Great Britain* is exhausting itself, almost to Ruin, in pursuance of Schemes pretended to be founded on our Engagements to the Queen of *Hungary*, the Electorate of *Hanover*, tho' under the same Engagements, as well as under the same Prince, does not appear to contribute any thing as an Ally to her Assistance, but is paid by *Great Britain* for all the Forces it has now in the Field; and the Bargain made for those Forces, is much more disadvantageous to us, than what we concluded with that Electorate in the Year 1702. For, in the Convention, then signed, there is no Stipulation, either for Levy Money, or for Recruit Money, with both which we are charged in the present Demand, besides other extraordinary Articles; and we conceive, that the Article of the Levy Money, amounting alone to no less a Sum than £39,313 l. is a more particular Hardship upon us, because it is known to all the World, that the 16,000 Men were not levied at the Request, nor for the Service of *England*; but that the only Addition made to the usual

usual Establishment of the Electoral Forces in Time of Peace, was 6000 Men raised some Time before, upon the Death of the late Emperor, and for the Service of his Majesty's *German* Dominions; nor can we help observing, that when we contracted for *Hanover* Troops in *June* 1702, their Pay did not commence 'till the Beginning of that very Month in which some had already taken the Field, and the rest were actually upon their March; so that the Contract being only to the first of *January* following, *England* received the Benefit of the Service of those Troops during a whole Campaign, for the Pay of seven Months only; whereas by now taking those Troops into Pay, on the 31st of *August* 1742, (that is a Month before they began their March into *Flanders*) 'till the 26th of *December*, 1743, we shall give them sixteen Months Pay for the Service of one Campaign only, if they should ever make a Campaign at all; so that *Hanover* not only receives the great and immediate Profit of this advantageous Bargain, but is also exonerated of above half the Number of Forces, which it used to maintain in Times of the most profound Tranquility.

8thly, Because the making so unnecessary a Bargain, in so very unthrifty a Manner, when this Nation is groaning under so heavy a Load of Debts and Taxes, engag'd in a maritime War, at a mighty Expence, and with doubtful Success, maintaining a great national Army abroad; and at the same Time burthen'd at home with 23,000 Men (the Use of which we cannot discover) over and above 11,550 Marines, excites in our Minds the most alarming and melancholy Apprehensions of the Dissatisfaction and Jealousy that may arise in the Breasts of his Majesty's most faithful Subjects, if ever the servile Ambition of any Minister should attempt to gain, and to taint the Royal Ear, by a mistaken Adulation to imagin'd Partiality (which we are perswaded does not and cannot exist) in the Behalf of an Interest foreign to that of this Kingdom, were it ever to be suspected from any new and surprizing Appearances, that this Nation could be engaged in the most expensive, chimerical, and dangerous Scheme, enter'd into without the Advice or

Y

Approbation

Approbation of Parliament ; that its Treasure could be exhausted, its Honour exposed, and its Safety risked, for no other End, than to advance that foreign Interest, and make such a Compliance the Price of Favour and Power : We are convinc'd it would be attended with more Alienation of the Hearts of the People from his Majesty's Person and Family, than almost any other Mismanagement could ever produce. We therefore think it the highest Duty we owe to our King and Country, to enter our timely Protest against the Approach of so fatal a Mischief, to deprecate the pernicious Effects of it in the most solemn Manner we can, and to express our earnest Desire, that this Motion had been complied with, in order to stop an Evil in its Beginning, by the prudent and salutary Intervention of this House of Parliament ; which, by the increasing Corruption of Ministers, may be extended so far, as either to throw this Nation into the greatest Disorder, or reduce it to a State of the meanest Dependency.

| | | |
|----------------------|-----------------------------|----------------------|
| <i>Chesterfield,</i> | <i>Rockingham,</i> | <i>Westmoreland,</i> |
| <i>Beauford,</i> | <i>Shaftsbury,</i> | <i>St. John,</i> |
| <i>Montjoy,</i> | <i>Bedford,</i> | <i>Stanhope,</i> |
| <i>Bridgewater,</i> | <i>Sandwich,</i> | <i>Aylesbury,</i> |
| <i>Haverham,</i> | <i>Hereford,</i> | <i>Talbot,</i> |
| <i>Coventry,</i> | <i>Oxford and Mortimer,</i> | <i>Northampton,</i> |
| <i>Aylesford,</i> | <i>Litchfield,</i> | <i>Denbigh,</i> |
| <i>Craven,</i> | <i>Abingdon,</i> | <i>Foley.</i> |

On a Motion to address his Majesty, that his Majesty will be most graciously pleased to give Orders, that the 16,000 *Hanoverians*, now in the Pay of *Great Britain*, be no longer continued in the Service of this Nation, after the 25th of this Instant *December* ; thereby to put a Stop to the Jealousies and Heart-burnings of his Majesty's faithful Subjects at home, and his Majesty's *British* Forces abroad.

Die Veneris 9° Decembris, 1743.

The House was moved, that an humble Address be presented to his Majesty, that his Majesty will most graciously

ciously be pleased to give Orders, that the sixteen Thousand *Hanoverians*, now in the Pay of *Great Britain*, be no longer continued in the Service of this Nation, after the 25th of this Instant *December*, thereby to put a Stop to the Jealousies and Heart burnings among his Majesty's faithful Subjects at home, and his *British* Forces abroad.

Which being objected to, and a long Debate thereupon, the Question was put on the said Motion.

Content 36 And it was resolved in the Negative.
Not Content 71

Dissentient'

1st, Because we conceive, that the Reasons assign'd in the Question, not only justify'd, but call'd for that Question, as a proper and necessary Exercise of the inherent Rights of this House, to advise the Crown; and we are convinc'd, that such Jealousies and Animosities have arisen, and will continue between the Troops of *Great Britain* and those of *Hanover*, that they can no longer act together, without evident Danger of the most pernicious and fatal Consequences.

2dly, Because this our Conviction is founded upon the most publick and universal Notoriety, first transmitted from the Army abroad, then confirmed without Doors, by the unanimous and concurrent Accounts of all the Officers that are return'd from them; and now uncontradicted by any of those noble Lords, who had the Honour of serving the last Campaign, and who were appealed to for the Truth of this Proposition, while the Question was under our Consideration: A Silence! which, we apprehend, amounts to a Demonstration of the Truth of the Facts alledged.

3dly, Because an Army divided against itself, in such a Manner as ours will certainly be, if the 16,000 *Hanoverians* are still to continue a Part of it, can give no Strength to whatever Allies we have, no Terror to our Enemies, but must greatly obstruct, and probably defeat the Success of any Operation or Service in which it can be employ'd.

4thly, Because the Incompatibility of the *British* and *Hanoverian* Troops being known to all *Europe*, nothing can be a greater Inducement to the Queen of *Hungary*

and the King of *Sardinia*, to quit our Alliance, and make a separate Peace for themselves, than if they should find, that, instead of a real and effectual Support, we are resolv'd to give the Name of an Army only; which, from the above mention'd Reasons, cannot co-operate in any Plan for their Service, or the Benefit of the common Cause.

5thly, Because we apprehend, that were it necessary, there would be no Difficulty in replacing the *Hanover* Troops, with 16,000 others, at least as good, and as cheap, and not liable to the same, or any other Objections from other States, who would be very willing to treat with us about such a Bargain. Nay, we conceive, that this Number might, without any Danger, be, in a great Degree, supply'd by our National Troops now in *Great Britain*, and still leave more for the Defence of the Kingdom at home, than were kept here at any Time during the last War. And we can discover no good Reason, in our present burthen'd and exhausted Condition, for keeping a Number of National Troops useless at home, and paying at the same Time so considerable a Number of *useless Mercenaries* abroad.

6thly, Because the Willingness of the States General of the United Provinces, or any other Power in *Europe*, to enter into a closer Conjunction with us, at this critical Time, must chiefly depend upon the Idea they shall conceive of the State of this Nation at home, especially with regard to the greater or lesser Degree of Union and Harmony, which shall appear to subsist between his Majesty and his People in these his Royal Dominions. And it is known all over *Europe*, how much Discontent and Dissatisfaction the taking these 16,000 *Hanover* Troops into the Pay of *Great Britain*, together with the many unhappy and mortifying Circumstances that have attended that Measure, has universally rais'd in this Kingdom; and how much Reason there is to apprehend an Increase of that Dissatisfaction, if it should be a determined Measure of Government, to continue so odious a Burden upon the Nation, not only without any Advantage, but with the most visible Danger to the Service abroad.

7thly,

7thly, Because we conceive it to be as much the Duty, as it is the Right of the Peers of this Realm, who are hereditary Counsellors to the King, and Mediators between the Crown and the People, to interpose their timely Advice against such Measures, as are calculated, in our Opinions, for the private Views of particular People only, have a manifest Tendency to alienate the Love of the Nation in general from this Royal Family, which we will always support with true *English* Hearts, and with such Counsels, as we do in our Consciences think the most conducive to their Glory, and to maintain and preserve the Honour and Dignity of that *British* Crown, to which *alone* we owe our Allegiance.

8thly, Because we know there are Partialities almost inseparable from human Nature, and blameless in themselves, when acting within their proper Bounds, which yet must have a most fatal Influence, if encouraged to mix themselves with the Affairs of this Nation, either in the Council or in the Camp; and we do, from our Souls, scorn and abominate that most abject and criminal Adulation, which either gives Way to, or inflames such Partialities, in prejudice to the National Honour and Interest of our Country: We therefore thought it necessary, to enter these our Reasons against the further Continuance of these Mercenaries, which for one Campaign only, have already cost this Nation near 70,000*l.* and which appear to us, to have been, in many Instances, disobedient to *British* Orders, and utterly incompatible with *British* Troops: That, as our Votes have (we hope) proved us to the present Age, our Names in the Books may transmit us to Posterity *ENGLISHMEN*.

Mar. borough,
Talbot,
Chesterfield,
Bridgewater,
Coventry,
Shaftsbury,
Abingdon,
Denbigh,
Stanhope,

Sandwich,
Bedford,
Huntingdon,
Ailsbury & Elgin,
Haverham,
Tham,
Mafham,
Rockingham,
Hereford,

Litchfield,
Westmoreland,
Northampton,
Foley,
Gower,
Mansel,
Beaufort,

On a Motion, That it is the Opinion of this House, That the continuing the Sixteen Thousand *Hanoverians* in the Pay of *Great Britain* is prejudicial to the true Interest of his Majesty, useless to the common Cause; and dangerous to the Welfare and Tranquility of this Nation.

Die Martis 31 Januarii, 1743.

The Order of the Day being read, for taking into farther Consideration the Estimate of the Charge of the Troops of *Hanover* in the Pay of *Great Britain*, from the 25th of *December*, 1743, to the 25th of *December*, 1744-

It was moved to resolve, That it is the Opinion of this House, that the continuing Sixteen Thousand *Hanoverians* in the Pay of *Great Britain*, is prejudicial to the true Interest of his Majesty, useless to the common Cause, and dangerous to the Welfare and Tranquility of this Nation.

And the same being objected to, after a long Debate thereupon, The Question was put upon the said Motion.

| | | |
|-------------|----|--------------------------------|
| Content | 41 | And it was resolved in the Ne- |
| Not Content | 86 | gative. |

Dissentient

1st, Because we conceive; that the Demand made in the Estimates, for the Continuance of the Sixteen Thousand *Hanoverians* in the Pay of *Great Britain* for the ensuing Year, rendered the Interposition of this House against so fatal a Measure the more necessary, inasmuch as it seemed now to be the only Means left to prevent it.

2^{dly}, Because we apprehend, that every national Purpose, pretended to be answered by these *Hanoverians*, may be more effectually served by an equal Number of Troops, supposing such a Number to be necessary, free from the same Objections, either of foreign *Mercenaries*, who will thereby be prevented from engaging with
our

our Enemies, (of which the *Hanoverians* when unpaid by us, cannot, we assure ourselves, be suspected) or, at least, (which is evidently practicable, even at this Time) partly of Mercenaries, and partly out of the great and extraordinary Establishment of national Troops now in this Kingdom.

3^{dly}, Because it appears to us, that these *Hanoverians*, though in the *Pay*, can hardly be said to have been in the *Service* of this Nation; some refused to form in the first Line at the Battle of *Dettingen*, and retired to the second; others refus'd to obey the Orders of the *British* General, and march in the Pursuit of the Enemy after the Battle; and the greatest Number of them, who, together with some of the *British* Guards, compos'd what was call'd the Rear-Guard, under the Command of a *Hanoverian* Lieutenant-General, took a different Rout in the March from the rest of the Army from *Aschaffenburg*; and such a one as not only rendered them wholly useless to the Army, when the *French* attacked us in Front, but would have render'd them equally useless, if the *French* from *Aschaffenburg* (where we left the Passage open to them) had attack'd us in the Rear, in which it was pretended that these Troops were left, as in the Post of Honour. Nay, not contented to avoid being of Use, either in the Front or in the Rear, but determined to be of Use no where, they halted as soon as they came within Sight and Reach of the Battle, tho' press'd by the *British* Officer, and invited by the Ardour of the *British* Soldiers to share the Glory, and complete, as they might have done, the Victory of the Day. These Facts (together with many others which we omit) asserted in the Debate in presence of many Lords of this House, who served in the last Campaign, denied by none of them, and confirm'd in general by a noble Duke of the highest Rank and Character, prove (as we conceive) these Troops to be useless, at least if Action be intended; and we will not represent, even to ourselves, what Reasons there can be for demanding them, if Action be not intended.

4^{thly}, Because, if, as it was insinuated in the Debate, other Mercenaries could not be relied on, as belonging to Princes of the Empire, inclined to or engaged with our

En-

Enemies, these *Hanoverians* would, as we conceive in Consequence, be useless to the common Cause; since it would be in the Power of those very Princes, by only marching their Troops into proper Places, to recal these Mercenaries from us, and confine them to the Defence of their own Electorate, or *disarm them at least*, by a *second Neutrality*.

5thly, Because it has not been pretended, that the Administration has so much as endeavoured to obtain any other foreign Troops whatsoever, notwithstanding the long Notoriety of the universal and deeply-rooted Dissatisfaction of the Nation at the present Measure. A Neglect so unaccountable and surprising to us, that we fear the Nation will rather suspect that we are to have no other Troops, than believe no others are to be had.

6thly, Because we conceive, that the future Co-operation of our national Troops with these Mercenaries has been render'd impracticable, and even their Meeting dangerous; we think it, therefore, indispensably incumbent upon us, to remove the Object that occasioned the many Instances of Partiality, by which the *Hanoverians* were unhappily distinguish'd, and our brave Fellow-Subjects, the *British* Forces, undeservedly discourag'd. The constant Preference in Quarters, Forage, &c. we wish no Occasion had been given to remember; but we cannot pass over in Silence the *Hanoverian* Guards having for some Days done Duty upon his Majesty at *Aischaffenburg*, which we look upon as the highest Dishonour to his Majesty and this Nation, and are therefore astonish'd to observe an unusual, and, to every other Purpose, useless Proportion of *Hanover* Guards continued upon the Estimate.

7thly, Because we apprehend, that the Argument urg'd in Opposition to this Question; namely, that the withdrawing these Sixteen Thousand *obnoxious Mercenaries*, would be weakening our Army in the next Campaign, alarm our Allies, and encourage our Enemies, is fully obviated by the Methods we have mentioned above, of replacing them; some, if not all of which, (notwithstanding the, to us, unaccountable Negligence of the Administration) are still undeniably practicable: Nor can

we conceive, in any Case, that the removing the Causes of Discord and Division tends to the weakening of that Body from whence they are remov'd ; and we are of Opinion, that our Allies would not (whatever our Enemies might) regret the Loss of these Troops the next Year, which, by Experience, they found so useless the last.

8thly, Because we apprehend, that the most fatal Consequences must ensue, should this Nation be once possess'd with an Opinion, that the Discouragements and Mortifications which our Fellow Subjects of the Army have received abroad, were deriv'd from any Distrust or Dislike of the *British* Nation ; we are far from entertaining any such Opinion, though some Degree of foreign Partiality may indeed have given Occasion to these Discouragements and Mortifications ; tho' we can't help ascribing them likewise to some abject Flattery, and criminal Misrepresentation, which this Partiality, blameless in itself, has unhappily given Occasion to ; and by which, in its Turn, it has been fomented. But how groundless soever such an Opinion may be, it may still prevail, and the Appearances we lament, may produce the Effects we dread. The Motives to that Concern, that have been express'd in this House, and the loud Dissatisfaction that has been express'd every-where else, are in themselves of great Importance, and such as would deserve, even if they stood alone, the serious Consideration and seasonable Interposition of this House. But we confess, that they appear to us still more important, when we consider them relatively to Things of the same Nature, less apparent, indeed, but equally real, and more detrimental, perhaps, if not more dishonourable to this Nation. For, more dishonourable they may be thought, if a continued Principle of Conduct, whereby the Interests of one Country are carried on in Subordination to those of another, constitute the true and mortifying Definition of a Province. We will not here call to Memory any former Measures of this Kind, nor recapitulate all the Instances that might be given, wherein the Blood and Treasure of this Nation have been lavishly employed, when no one *British* Interest, and, as we conceive, some *foreign Interest alone*
was

was concern'd. Some of these Instances were touch'd in the Debate, most of them are well known, and ail of them are at this Time, by the Course of Events, manifested to publick View. The former were long hid and disguised under political Veils, the present could not by their Nature be so ; they are such as strike every one equally, from the highest Officer to the common Soldier, and carry along with them not only their own Weight, but the Weight of all those that preceded them : They are such, therefore, in our Opinions, as must affect, in the most fatal Manner, both the Peace of his Majesty and his Royal Family, and the common Cause, in which we are now and may hereafter be engag'd. The present Royal Family was justly called to the Throne of *Great Britain*, in order to secure to us our civil and religious Rights, and to remove every false and foreign Bias from our Administration: The Happiness and Security therefore, of both King and People, consist in the inseparable Union of all these Interests, with the Interest of the Crown, in a just Confidence, that these National Views were those of the present Royal Family. This Nation has done every Thing that could engage them to adhere to them ; and has given to his late and present Majesty, far greater Sums than ever were given in similar Circumstances, to any of their Royal Predecessors. Whoever goes about to sever the Interests of the Crown, from any national Interests, is an Enemy to both ; and every Measure that does do, tends to destroy both. It is to guard against such Attempts, that our Zeal for our King and Country exerts itself on this great Occasion, as our most earnest Desire is, that his Majesty's Throne should be establish'd in the Hearts of his People ; and as we are struck with Horror at every Object that can alienate his Affections from them, or theirs from him. How much these unfortunate Circumstances have already weaken'd the natural Influence of *Great Britain* in the common Cause of *Europe*, is but too apparent in Fact, and could not be otherwise in the Nature of Things. *Great Britain* is a powerful Kingdom, and whenever she has acted in her true Character, and aimed at that great and noble View alone, of maintaining a Ballance between the
Power

Powers of *Europe*, for the common Interest of all, the Effects have been answerable to the Cause, and her Influence in *Germany*, sav'd by her Arms, and supported by her Treasures in the last Wars, was, as it ought to be, and as it has been every where else, superior. But should it ever appear, that an inferior *German* Principality is really, and *Great Britain* only nominally, the Director and Actor, such a Change in the Cause must necessarily produce a deplorable Difference in the Effect; and *Hannover*, that can neither give Strength nor Consideration to *Great Britain*, may thus diminish the one, and take the other wholly away.

| | | |
|-------------------------------|------------------------|--------------------|
| <i>Westmoreland,</i> | <i>Ancaſter, G. C.</i> | <i>Shaſtsbury,</i> |
| <i>Sandwich,</i> | <i>Talbot,</i> | <i>Coventry,</i> |
| <i>Montjoy,</i> | <i>Tbanet,</i> | <i>Denbigh,</i> |
| <i>Dunk Hallifax,</i> | <i>Bridgwater,</i> | <i>Aiſbury,</i> |
| <i>Gower,</i> | <i>Cheſterfield,</i> | <i>Bedford,</i> |
| <i>Boyle,</i> | <i>Litchfield,</i> | <i>Abingdon,</i> |
| <i>Oxford & Mortimer,</i> | <i>Hervey,</i> | <i>Beaufort,</i> |
| <i>Foley,</i> | <i>Strafford,</i> | |
| <i>Huntingdon,</i> | <i>Stamford,</i> | |

Die Jovis 27^o Aprilis, 1744.

The Order being read for the Houſe to be put into a Committee, upon the Bill, entitled, *An Act to make it High Treason, to hold Correſpondence with the Sons of the Pretender to his Maſteſty's Crown.*

Order'd that it be an Inſtruction to the ſaid Committee that they do receive a Clause for attainting any of the Pretender's Sons of High Treason, in Caſe they ſhall land, or attempt to land in *Great Britain*, or any other of the Dominions belonging to the Crown of *Great Britain*, or be found on board any Ship or Veſſel with Intent to land there.

Then the Houſe was moved, that the tenth Section of an Act, made in the 7th Year of the Year of her late Maſteſty Queen *Anne*, intituled, *An Act for improving the Union of the two Kingdoms, relating to Forfeitures*, might be read.

Tba

The same ordered accordingly, and was to this Effect. *Proviso*, " That after the Decease of the Pretender, and at the End of three Years after the Succession to the Crown on the Demise of the Queen shall take Effect, no Attainder for Treason shall extend to the dis-inheriting of any Heir, nor prejudice the Right or Title of any Person, other than the Offender during his natural Life only." *Stat. Abr.*

And it being also moved, That it be an Instruction to the said Committee, that they do receive a Clause or Clauses to suspend and postpone the Operation and Effect of the said tenth Section of the said Act, 'till after the Death of the Sons of the Pretender.

The same was objected to, and after a long Debate thereupon, the Question was put, Whether such an Instruction shall be given to the Committee?

It was resolved in the Affirmative.

Dissentient'

1st, Because this Addition to the Bill enacts the Continuation of a Punishment, which, tho' it may have prevailed at Times, in this and other Countries, we conceive it to be directly contrary to the first Principles of natural Justice, it being an uncontested Maxim, that the Innocent ought not to suffer for the Sake of the Guilty, where, by the Nature of the Thing, it is possible to prevent it.

2^{dly}, Because involving the Innocent in the Punishment of the Guilty, is wholly inconsistent with that Spirit of Justice and Lenity that distinguishes our Law; and which says, *It is better, that ten guilty Persons should escape, than that one innocent one should suffer.*

3^{dly}, Because we conceive, that the postponing the Operation of that Clause, in Act 7. of Queen Anne, 'till the Death of the Pretender's two Sons, is contrary to the plain Intention of that very Act, which appears throughout to have been an Act of Lenity and Mitigation; or to have been confin'd to the Life of the Pretender himself, or three Years after the Succession of the present Royal Family should take Place, the Duration of those cruel Penalties, of Forfeiture of the Estates, and Corruption of
the

the Blood of innocent Persons, as the utmost Term it was proper or just to allow them ; and we apprehend, that the Pretender's marrying and having Children, was at that Time too probable and obvious an Event, not to have suggested this Provision, had it been thought either just or necessary.

4^{thly}, Because we are far from being convinced, that the Terror of these Penalties will so often prevent Guilt, as the Execution of them will oppress Innocence ; and we do not conceive, that those whom neither the innate Principle of Self preservation, nor the Horror inseparable from Guilt can restrain, will be check'd by the tender Sentiments of parental Affection.

5^{thly}, Because we conceive, that no present Danger whatever can be urg'd as an Argument for this Clause, whose Operation does not commence 'till after the Death of the Pretender, who is now but fifty six Years old ; and we can see no good Reason for anticipating a future and remote Danger (supposing that such a Danger could ever exist) in order to enact at present the longer Continuation of so dreadful a penal Law.

6^{thly}, Because we conceive the Continuation is, in Effect, perpetuating this severe Law, since whatever Reasons can be urg'd for it during the Lives of the Pretender's two Sons, will be equally made use of for continuing it, as long as he or they shall have any Posterity subsisting.

7^{thly}, Because we conceive, That as the Clause can have no immediate Operation, the enacting it at present may seem rather to be an Insinuation of present Disaffection, than any Security against it ; which Insinuation, we apprehend, would be highly unjust and unbecoming, after the unanimous Zeal and Loyalty, which the whole Nation has so lately given Proofs of, for his Majesty's Person and Government, and with which his Majesty has so lately from the Throne declared himself satisfied. These Reasons have induc'd us to transmit to Posterity our Dissent to a Clause, by which they may be so severely affected : We reflect with Concern upon the heavy Burthen of Debts and Taxes with which, we fear, we shall leave them loaded ; and we desire that they may

Z

know

know, that we endeavour'd, at least, to secure their Innocence from the Rigour of those Laws, to which it may hereafter be expos'd and sacrific'd.

| | | |
|-------------------------------|---|---------------------|
| <i>Denbigh,</i> | <i>Beaufort,</i> | <i>Bridgewater,</i> |
| <i>Oxford & Mortimer,</i> | <i>Ward,</i> | <i>Ailesbury,</i> |
| <i>Rockingham,</i> | <i>Hervy,</i> | <i>Talbot,</i> |
| <i>Macclesfield,</i> | <i>Litchfield,</i> | <i>Coventry.</i> |
| <i>Foley,</i> | <i>Warrington,</i> | |
| <i>Westmoreland,</i> | <i>Chesterfield,</i> | |
| <i>Bedford,</i> | } for all the above Reasons except the 4th. | |
| <i>Thames,</i> | | |

Die Veneris 27 Aprilis, 1744.

The Order being read for the House to be put into a Committee, upon the Bill, intituled, *An Act to make it High Treason to hold Correspondence with the Sons of the Pretender, to his Majesty's Crown.*

Order'd, that it be an Instruction to the said Committee, that they do receive a Clause for attainting any of the Pretender's Sons of High Treason, in case they shall land, or attempt to land in *Great Britain*, or any of the Dominions belonging to the Crown of *Great Britain*, or to be found on board any Ship or Vessel with Intent to land there.

Then the House was moved, that the tenth Section of an Act, made in the 7th Year of the Reign of her late Majesty Queen *Anne*, intituled, *An Act for improving the Union of the two Kingdoms, relating to Forfeitures for High Treason*, might be read.

The same was read accordingly.

And it being also moved, That it be an Instruction to the said Committee, that they do receive a Clause or Clauses to suspend and postpone the Operation and Effect of the said Act, 'till after the Death of the Sons of the Pretender.

The same was objected to, and after a long Debate thereupon,

The

The Question was put, Whether such an Instruction shall be given to the Committee.

It was resolv'd in the Affirmative.

Dissentient'

1. Because this Addition to the Bill enacts the Continuation of a Punishment, which, tho' it may have prevailed at Times, in this and other Countries, we conceive it to be directly contrary to the first Principles of natural Justice, it being an uncontested Maxim, that the Innocent ought not to suffer for the Sake of the Guilty, where, by the Nature of the Thing, it is possible to prevent it.

2. Because involving the Innocent in the Punishment of the Guilty, is wholly inconsistent with that Spirit of Justice and Lenity that distinguishes our Law; and which says, *It is better that ten guilty Persons should escape, than that one innocent one should suffer.*

3. Because we conceive, that the postponing the Operation of that Clause, in Act 7. of Queen Anne, 'till the Deaths of the Pretender's two Sons, is contrary to the plain Intention of that very Act, which appears throughout to have been an Act of Lenity and Mitigation; and to have been confin'd to the Life of the Pretender himself, or three Years after the Succession of the present Royal Family should take Place, the Duration of those cruel Penalties, of Forfeiture of the Estates, and Corruption of the Blood of innocent Persons, as the utmost Term it was proper or just to allow them; and we apprehend, That the Pretender's marrying and having Children, was at that Time too probable and obvious an Event, not to have suggested this Provision, had it been thought either just or necessary.

4. Because we are far from being convinc'd, that the Terror of these Penalties will so often prevent Guilt, as the Execution of them will oppress Innocence; and we do not conceive, that those whom neither the innate Principle of Self-preservation, nor the Horror inseparable from Guilt can restrain, will be checked by the tender Sentiments of parental Affection.

5. Because we conceive, that no present Danger whatever can be urg'd as an Argument for this Clause, whose

Operation does not commence 'till after the Death of the Pretender, who is now but fifty-six Years old ; and we can see no good Reason for anticipating a future and remote Danger (supposing that such a Danger could ever exist) in order to enact at present the longer Continuation of so dreadful a Penal Law.

6 Because we conceive, that this Continuation is, in Effect, perpetuating this severe Law, since whatever Reason can be urg'd for it during the Lives of the Pretender's two Sons, will hold equally strong for continuing it as long as he or they shall have any Posterity subsisting.

7. Because we conceive, that as this Clause can have no immediate Operation, the enacting it at present may seem rather to be an Insinuation of present Disaffection, than any Security against it ; which Insinuation we apprehend, would be highly unjust and unbecoming, after the unanimous Zeal and Loyalty, which the whole Nation has so lately given Proofs of for His Majesty's Person and Government, and with which his Majesty has so lately from the Throne declar'd himself satisfied. These Reasons have induc'd us to transmit to Posterity our Dissent to a Clause by which they may be so severely affected : We reflect with Concern upon the heavy Burden of Debts and Taxes with which we fear we shall leave them loaded ; and we desire that they may know, that we endeavour'd, at least, to secure their Innocence from the Rigour of those Laws to which it may hereafter be expos'd and sacrificed.

The Clause referred to.

Proviso, That after the Decease of the Pretender, and at the End of three Years after the Succession of the Crown by the Demise of the Queen shall take Effect, no Attainder for Treason shall disinherit any Heir, nor prejudice the Right of any Person, other than the Right of the Offender during his natural Life.

Abridg. of the Statutes.

Denbigh,

Denbigh,
Oxford & Mortimer,
Rockingham,
Macclesfield,
Foley,
Westmoreland,
Beaufort,
Ward,

Litchfield,
Warrington,
Chesterfield,
Bridgewater,
Ailesbury,
Talbot,
Coventry,
Hervey,

Bedford, } for all the above Reasons except
Thanet, } the 4th.

A. 1745. Being the Year the Rebellion broke out,
there was no PROTEST.

Die Veneris 2do Maij, 1746.

The Order of the Day being read, for taking into Consideration the several Papers presented to this House the 28th of *April* last, pursuant to their Lordship's Address to his Majesty of the 22d of the same Month.

The said Papers were also read.

Then,

It was mov'd to resolve, That an humble Address be presented to his Majesty, most humbly to represent to his Majesty, as the Opinion and Advice of this House, that carrying on the War in *Flanders*, at so vast a Disproportion of Expence to this Nation, by forming an Army on the Continent paid by this Nation, while the States of the *United Provinces*, notwithstanding the unaccountable Loss of the greatest Part of their Barrier, and notwithstanding the very great Efforts, which this Nation has made, have not only avoided declaring War against *France*, pursuant to Treaties, but are actually negotiating for themselves at the Court of *France*, is a Measure tending more to exhaust a Nation, long and grievously burthen'd with Debts and Taxes, and to destroy the publick Credit, than to weaken the Power of the common Enemy, which can best be effected, by this Nation, where itself is weaken'd least, by a vigorous Exertion of our Naval Strength, and by enabling (as far as the Circumstances of the Nation will permit) those Powers upon the Continent, who are more nearly interested in its Defence, to imitate the magnanimous Con-

duct of his Majesty's good Ally the King of *Sardinia*, in carrying on the War as Principals in Defence of their own nearest Concerns, and to maintain the Liberty and Independence of *Europe* against the ambitious Views and Attempts of *France*.

Which being objected to,
And long Debate thereupon,
The Question was put upon the said Motion?
And it was resolved in the Negative.

| | |
|-----------|----|
| Contents | 26 |
| Not Cont. | 81 |

Dissentient

1. Because it appears to us, to be a Measure repugnant to the real and fundamental Interests of this Island to engage *Great Britain* as a Principal; and, in Effect, as the only Principal in a Land War in the *Netherlands*; the Consequences of which are not only the Encrease of Taxes, and of Debts at home, but such immense Exportations of Specie abroad, as this Country cannot long, without Ruin, sustain.

2. Because we have experienc'd, and feel the Mischiefs arising to this Nation from the undue Influence of foreign Interests upon the Continent, whereby we have been unnecessarily embroiled in endless Jealousies and Contests, and engaged in impracticable Treaties and fruitless Subsidies, until after Intervals (hardly to be distinguish'd) of Peace without Oeconomy, and War without Effect, scarce any Trace remains of all the Efforts which this Nation has made upon the Continent, except that of a Debt of more than sixty Millions, exhausting the landed, distressing the trading Interest, creating new Powers, and Influence dangerous to the Constitution, sapping the Credit, and preying upon the very Vitals of our Country,

3. Because the Means for carrying on the War have appeared, and still appear to us, not only burthensome and grievous to the Nation, but insufficient to the national End (which in our Opinion ought to be the Re-establishment of Peace), and the Conduct of the War throughout the several Changes of Administration at home, seems to us to have been unaccountable from the
unavailing

unavailing Victory of *Dettingen*, to the Slaughter of our gallant Countrymen at *Fontenoy*.

4. Because we have still less Reason for concurring in this Measure, when we reflect upon the Conduct of our Allies, *Italy* having been well nigh lost, by the Inattention of the Court of *Vienna*, and the Barrier in the *Netherlands* having been unaccountably given up by a Conduct of the *Dutch*, for which we want a Name, as we want Reasons for the ineffectual and contemptuous Succour which they sent in our domestick Distress; and Part of which (even such as it was) they withdrew when the Danger appeared greatest.

5. Because after those Ministers, who first engaged us in this Measure, had declared the Concurrence of the *Dutch* essential to its Success; and after a new form'd Administration had so explicitly declar'd that Concurrence to be the necessary Condition of continuing that Measure, after not only the Conduct, but the very Words of the *Dutch* (as contained in the Memorial which has been laid before us) manifest their Disability, or their Disinclination to any cordial or effectual Concurrence: and after it is become notorious, that at this very Time they are treating for themselves at the Court of *France*, (if we may not rather infer from their Conduct, that they have already secur'd to themselves that Protection which their Ancestors disdain'd.) After all these Considerations, we hold it inexcusable to concur in charging our poor and exhausted Country with new and immense Expences, which not only common Sense, but Experience has pointed out to be in this Conjecture ineffectual. A Conjecture in which even they, who advise his Majesty, did not flatter us with much Hope of Success.

6. Because the prodigious Expences which this Nation sustains, in support of this Measure, for the Hire of foreign Mercenaries, bears no Proportion between us and our Allies; either with Regard to their and our Interests to Stipulations observed in former Wars, or to our present Abilities, and must inevitably be (as we apprehend) a growing Expence, if the present Measures are pursued..

7. Be-

7. Because we have seen Part of the *British* Forces left useless abroad, at a Time when an additional military Strength was thought wanting for our domestick Defence; and that Want supply'd by foreign Mercenaries, which alarms us greatly, from the Reflections we cannot avoid making on the fatal Consequences which may be produced to this Country, if a Prerogative shall be ever established for bringing over into this Country foreign Mercenaries in *British* Pay, even during the sitting of Parliament, and without previously consulting that Parliament in a Matter so new, and so essential to the Honour, and to the Safety of the Nation. This alarms us the more, when we see the Troops of *Hanover*, which had been effectually secreted from the last Year's Estimates (tho' paid by this Nation then) now taken avowedly again into *British* Pay; for which second Variation we are not able to assign any national Motive. Our Alarm, therefore, must increase, since that Patriot Zeal seems alarm'd no longer, which adopted, at least, the constitutional Jealousy, and which had given, at least, the Sanction of ministerial and parliamentary Acquiescence to the popular Discontent occasioned before by the Troops of *Hanover*, we, therefore, consider it as our bounden Duty to our Country, and to his Majesty's Royal Family, to warn Posterity to watch the Exertion of so dangerous a Prerogative, by which upon the same Reasoning and Pretence, that a small Number of *Hanoverians* may be introduced into this Country, any greater Number may; and if that shall ever be the Case, the Rights and Liberties of this Country may be left at Mercy, or the *Protestant* Succession in his Majesty's Royal House be, at least, endangered by the Discontents which such a Measure might produce in the Hearts of the People.

8. Because we are discouraged still more from engaging in the further Burthens and Hazards of this consuming Measure, by the sad View of the Situation of Affairs at home. The Peace of the Kingdom is not yet intirely restored; the whole Expence already incurr'd by the Rebellion is not yet ascertain'd; the further Expence, which may be incurr'd, cannot be yet foreseen; the pressing Demands of the Navy-Debt weaken us most where we should

should endeavour to be strongest ; and since to these we may add the Stagnation of Commerce, the Decay of our Inland Trade, the vast Increase of our military Establishment at home, made up of Hands wanted by the Manufacturer, and the Farmer ; the Decrease of national Wealth, the Difficulty and enhanced Expence of raising Supplies ; when adding Debts to Debts, we have parted, in Effect, with the very Power of Redemption, by mortgaging the Sinking Fund ; the Fluctuation and Delicacy of the Publick Credit ; the Combination of all these Circumstances presents to our Minds a dark and dangerous Situation (such a one as we would not have thus pointed out, if it remained a Secret to any one within, or without this Island) a Situation, which, we apprehend, ought to fix our Attention, in the first Place, at home, and to warn us not to precipitate the too nearly impending Ruin of our Country. We should rather hope for a proper Exertion of our own *British* Naval Strength, and by assisting the Powers more nearly concerned upon her Continent, with unsparing, but not with lavish Hands, to withstand the ambitious Designs of *France* ; that we might regain to this Nation from foreign Powers that Respect grounded upon our Prudence, and upon our Strength rightly apply'd ; which alone ought to be made the Foundation, and can alone be the Support of Peace. At least that, we might find some Leisure from our Cares for others, to effect, if possible, our own domestick Welfare, instead of promoting (as we apprehend the present Measures tend to promote) National Calamity, Bankruptcy, and military Government.

9. Because our Duty to God, and to our Country, excites us in such a Situation, more particularly to exert ourselves in Discharge of that Office, for which we stand accountable to both, being established by the Constitution Guardians of the People, and Counsellors to the Crown, constituted to watch, to check, to avert, to retrieve, to support, or to withstand wherever our Duty suggests ; in which no Desire of Opposition, no personal Dislike, no little Motive of Resentment, or of Ambition ; no selfish, or no partial Consideration has animated, can relax, or shall disgrace our Conduct ; affected deeply, but not depressed

with the impending Ruin of our Country; we are determined not to be silent in our Endeavours to restore the Union, which can only be effected by the Re-establishment of Peace, and of Order, by wise Economy, and necessary Reformation, by regaining Confidence and Authority to Government; and reviving in the Nation a true Spirit and moral Spirit. With all this we will conduct in fact a Conduct we will unite with others. At other Connections and Views we disclaim and reject.

| | |
|-----------------------------|-----------------------------|
| <i>Bacon,</i> | <i>Manning,</i> |
| <i>English of Exeter,</i> | <i>Craven,</i> |
| <i>Northampton,</i> | <i>Constitution,</i> |
| <i>Walsingham,</i> | <i>Litchfield,</i> |
| <i>Exeter,</i> | <i>Stanhope,</i> |
| <i>Carleton of Marston,</i> | <i>St. John de Blotfoe,</i> |
| <i>Ampton,</i> | <i>Ward,</i> |
| <i>Ampton,</i> | <i>Moyard,</i> |
| <i>Exeter,</i> | <i>Boss,</i> |
| <i>Exeter,</i> | <i>Exeter.</i> |

On Friday, 21 May 1747.

The Court in the Day being read for refusing the Union Commission in the Bill, entitled, *An Act for settling peace and amending the several Jurisdictions in that Part of Great Britain called Scotland, and for making Regulations in the Foresters Courts, and for restoring and Re-establishing in the Crown, and for making more effectual Provisions for the Administration of Justice, throughout that Part of the United Kingdom, by the King's Courts and Judges there, and for rendering the Union of the two Kingdoms more complete.*

It was moved to commit the same.

Which being referred to,

And long Debates thereupon,

The Question was put, whether this Bill shall be committed.

| | |
|-------|----|
| Yeas, | 79 |
| Noes, | 16 |

It was resolved in the Affirmative.

Dissentient

1. Because changing the civil Constitution of *Scotland*, which the Act of Union reserved, and taking from the great Families in that part of the Kingdom, without their Consent, and against their Will, their ancient Rights and Inheritances to be purchased by the Publick in this Time of their Distress, at a great but uncertain Expence, appears to us to be so extraordinary an Exertion of the Power of Parliament, as could only be justified by Necessity of State, or by some general, manifest, and urgent Utility to the Publick.

2. Because we apprehend this Bill not to be justified by any Necessity of State, since it is manifestly and avowedly ineffectual, if calculated for adding any further Security to his Majesty's Government, because it is not so much as pretended that this Bill can have any Effect upon the Influence of Clans, which arises from no legal Authority, and since from the legal Jurisdictions subject to the Controul, and necessarily under the Direction of the King's Courts in *Scotland*, Danger to Government is no more likely to rise, than from the Influence which Rank and Property may acquire in any other Part of his Majesty's Dominions.

3. Because the Utility to the Subjects in that Part of the Kingdom from this Bill, is not apparent to us, since it is not imagined that a real, a great, and extensive Benefit should now be derived by the People of *Scotland*, when rendered to them, but on the contrary, should meet with strong Opposition, cold Acquiescence or silent Disgust; and since no single Instance of Grievance has been alledged; but on the contrary, it has been acknowledged, that no bad Use has been made of this Part of the ancient civil Constitution of *Scotland*, which it is intended by this Bill, to abolish at once, and for ever.

4. Because we do not conceive the Policy of making without Necessity, at this Time by a permanent Law, so considerable an Alteration in Government, nor do we apprehend the Wisdom of purchasing an ineffectual problematical Plan by a certain but unknown Expence. Neither do we understand how it is consistent with Justice to
abolish

abolish the Rights of the Parties concern'd without previously adjusting their Compensations, nor can we reconcile with our Duty to the Publick, the delegating to the Court of Session in *Scotland*, the Power of fixing the Sums to be raised upon the People, a new Method of creating a new Load of Expence in no Degree ascertained or ever suggested to Parliament.

5. Because we apprehend by the Maxims of the Constitutions of this Country, Influence in the Hands of the Crown, is more to be feared by the Abuse of ministerial Power, especially in the Election of Members of Parliament, than when in the Hands of the Nobility and Gentry, whose Rank and Property are naturally the Supports of a free Government; and we cannot conceive how the Liberty of *Scotland* will be better preserved by this Bill which (in our Opinions) manifestly tends to constitute at this Juncture a new Influence over all the Counties of *North Britain*, by throwing a great and dangerous Power, into the Hands of Ministers, especially when it is avowed, that such an Alteration of Government may necessitate the Introduction of a military Force. A fatal Symptom. When it can even be mention'd in a *British* Parliament, that a Measure avowedly ineffectual for the Safety of Government, and evidently unnecessary for the publick Utility, must probably be carried into Execution by military Force, which if allowed and not exerted must produce an Influence of the most pernicious Kind; if exerted establishes a military Government of the most dangerous Nature, because marked under the former civil Government, a Practice tending in either Case, totally to subvert the Constitution of this Country, and to which therefore we can never consent.

*Oxford & Mortimer,
Westmoreland,
Ferrers,
Shaftesbury,
Denbigh,*

*Litchfield,
Stanhope,
Ward,
Talbot,
Beaufort.*

F I N I S.





7

/



